

Temperature Waterbody-pollutant Pairs

Waterbody	Listing ID
Deschutes River	6576
	7590
	48710
	48711
	48712
	48713
	48714
	48715
	48717
	48718
	9439
	7588
	7592
	7593
	7595
	48720
	48721
	48724
	48726
Huckleberry Creek	3757
Reichel Creek	48666
Tempo Lake Outlet	48696
Ayer (Elwanger) Creek	73229
Unnamed Spring to Deschutes River	48923
Black Lake Ditch	48733
	48734
	48735
Percival Creek	42321
	48249
	48727
	48729

Ex. 5 Deliberative Process (DP)**DO Waterbody-pollutant Pairs**

Waterbody	Listing ID
Ayer (Elwanger) Creek	5851
Deschutes River	10894
	47753
	47754
	47756
Lake Lawrence Creek	47696
Reichel Creek	47714
Black Lake Ditch	47761
	47762
Percival Creek	48085
	48086

Ex. 5 Deliberative Process (DP)

pH Waterbody-pollutant Pairs

Waterbody	Listing ID
Adams Creek	50965
Ayer (Elwanger) Creek	5850
Black Lake Ditch	50990

Ex. 5 Deliberative Process (DP)**Fine Sediment Waterbody-pollutant Pair**

Waterbody	Listing ID
Deschutes River	6232

Ex. 5 Deliberative Process (DP)**Bacteria Waterbody-pollutant Pairs**

Waterbody	Listing ID
Adams Creek	45462
	45695
Butler Creek	45471
Butler Creek, SW F	45342
Ellis Creek	45480
Indian Creek	3758
	45213
	46410
	74218
Mission Creek	45212
	46102
Moxlie Creek	3759
	3761
	45252
	46432
Schneider Creek	45559
Ayer (Elwanger) Creek	5849
Chambers Creek	45560
Deschutes River	46499
	46500
	9881
	46210
Reichel Creek	3763
	45566
Spurgeon Creek	46061
Percival Creek	46103
	46108

Ex. 5 Deliberative Process (DP)

Message

From: Wall, Tom [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=128011AC603C4D1A82301ADA1BDFD733-TWALL]
Sent: 3/21/2018 7:33:44 PM
To: Goodin, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3eac342f280a4b9db4079c81f66d1913-JGoodin]; Connors, Sandra [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cc4f8f838be74de797ba9f894a0bc7b5-SCONNORS]
CC: Havard, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9350676809e8403994f1dfc2b7bfdcfe-JHAVARD]
Subject: ACTION: OGC seeking OW approval for contacting NWEA re: Deschutes TMDL Litigation
Attachments: Deschutes Options_3-5-18.docx; ATT00001.htm

Ex. 5 AC/DP

Sent from my iPhone

Begin forwarded message:

From: "Havard, James" <Havard.James@epa.gov>
Date: March 21, 2018 at 3:27:08 PM EDT
To: "Wall, Tom" <Wall.Tom@epa.gov>
Cc: "Lewicki, Chris" <Lewicki.Chris@epa.gov>, "Monschein, Eric" <Monschein.Eric@epa.gov>, "Hunter, Christopher" <Hunter.Christopher@epa.gov>
Subject: OW approval for contacting NWEA re: Deschutes TMDL Litigation

Tom,

Ex. 5 AC/DP

Thanks! Jim

From: Lewicki, Chris
Sent: Tuesday, March 20, 2018 11:34 AM
To: Havard, James <Havard.James@epa.gov>; Hunter, Christopher <Hunter.Christopher@epa.gov>
Subject: RE: Deschutes Litigation Strategy
Importance: High

Jim

I just spoke to Curtin to make sure I was clear on what is being proposed. Here is what I learned.

Ex. 5 Attorney Client (AC)

From: Curtin, James
Sent: Tuesday, March 20, 2018 10:29 AM
To: Havard, James <Havard.James@epa.gov>; Lewicki, Chris <Lewicki.Chris@epa.gov>; Hunter, Christopher <Hunter.Christopher@epa.gov>
Subject: RE: Deschutes Litigation Strategy

Jim H,

Ex. 5 Attorney Client (AC)

Thanks.

Jim

Jim Curtin
USEPA Office of General Counsel
Water Law Office
202-564-5482
William Jefferson Clinton North Rm. 7451

From: Curtin, James
Sent: Monday, March 19, 2018 5:04 PM
To: Havard, James <Havard.James@epa.gov>; Lewicki, Chris <Lewicki.Chris@epa.gov>; Hunter, Christopher <Hunter.Christopher@epa.gov>
Subject: Deschutes Litigation Strategy

Jim H,

Ex. 5 Attorney Client (AC)

Let me know what you think.

Jim

Jim Curtin
USEPA Office of General Counsel
Water Law Office
202-564-5482
William Jefferson Clinton North Rm. 7451

Message

From: Goodin, John [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=3EAC342F280A4B9DB4079C81F66D1913-JGOODIN]
Sent: 3/21/2018 8:56:45 PM
To: Connors, Sandra [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cc4f8f838be74de797ba9f894a0bc7b5-SCONNORS]; Wall, Tom [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=128011ac603c4d1a82301ada1bdfd733-Twall]; Havard, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9350676809e8403994f1dfc2b7bfdcfe-JHAVARD]
Subject: Fwd: FYI: Deschutes TMDL Joint Status Report Filing Today

Sent from my iPhone

Begin forwarded message:

From: Goodin.John@epa.gov
Date: March 9, 2018 at 11:55:24 AM CST
To: ross.davidp@epa.gov
Cc: Lee Forsgren <forsgren.lee@epa.gov>, Tom Wall <Wall.Tom@epa.gov>, Havard.James@epa.gov
Subject: **FYI: Deschutes TMDL Joint Status Report Filing Today**

DELIBERATE

Dave— As mentioned at staff meeting Monday, today DOJ and plaintiff are filing a joint status report in Northwest Environmental Advocates v EPA, USDC, W.D. of Washington. This case alleges EPA failed to carry out its nondiscretionary duty to approve or disapprove the Deschutes River TMDLs within thirty days after submission by the State. The TMDL submission by the State involves 73 water segments and 5 pollutants, and was submitted in 2015 and supplemented in 2017.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Happy to discuss the TMDL timing issue as we move forward.

Thanks
John

Sent from my iPhone

Message

From: Goodin, John [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=3EAC342F280A4B9DB4079C81F66D1913-JGOODIN]
Sent: 3/21/2018 8:56:16 PM
To: Connors, Sandra [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cc4f8f838be74de797ba9f894a0bc7b5-SCONNORS]
CC: Wall, Tom [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=128011ac603c4d1a82301ada1bdfd733-Twall]; Havard, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9350676809e8403994f1dfc2b7bfdcfe-JHAVARD]
Subject: Re: ACTION: OGC seeking OW approval for contacting NWEA re: Deschutes TMDL Litigation

You can mention my previous note to Dave for context on Deschutes if useful— will send copy next email.

Sent from my iPhone

On Mar 21, 2018, at 3:23 PM, Connors, Sandra <Connors.Sandra@epa.gov> wrote:

Ok - will combine with James River and send to Dave/Lee/Benita tonight.

Sent from my iPhone

On Mar 21, 2018, at 3:33 PM, Wall, Tom <Wall.Tom@epa.gov> wrote:

Ex. 5 Deliberative Process (DP)

Sent from my iPhone

Begin forwarded message:

From: "Havard, James" <Havard.James@epa.gov>
Date: March 21, 2018 at 3:27:08 PM EDT
To: "Wall, Tom" <Wall.Tom@epa.gov>
Cc: "Lewicki, Chris" <Lewicki.Chris@epa.gov>, "Monschein, Eric" <Monschein.Eric@epa.gov>, "Hunter, Christopher" <Hunter.Christopher@epa.gov>
Subject: OW approval for contacting NWEA re: Deschutes TMDL Litigation

Tom,

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Thanks! Jim

From: Lewicki, Chris
Sent: Tuesday, March 20, 2018 11:34 AM
To: Havard, James <Havard.James@epa.gov>; Hunter, Christopher <Hunter.Christopher@epa.gov>
Subject: RE: Deschutes Litigation Strategy
Importance: High

Jim

I just spoke to Curtin to make sure I was clear on what is being proposed. Here is what I learned.

Ex. 5 Attorney Client (AC)

From: Curtin, James
Sent: Tuesday, March 20, 2018 10:29 AM
To: Havard, James <Havard.James@epa.gov>; Lewicki, Chris <Lewicki.Chris@epa.gov>; Hunter, Christopher <Hunter.Christopher@epa.gov>
Subject: RE: Deschutes Litigation Strategy

Jim H,

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Thanks.

Jim

Jim Curtin
USEPA Office of General Counsel
Water Law Office
202-564-5482
William Jefferson Clinton North Rm. 7451

From: Curtin, James
Sent: Monday, March 19, 2018 5:04 PM
To: Havard, James <Havard.James@epa.gov>; Lewicki, Chris
<Lewicki.Chris@epa.gov>; Hunter, Christopher
<Hunter.Christopher@epa.gov>
Subject: Deschutes Litigation Strategy

Jim H,

Ex. 5 Attorney Client (AC)

Let me know what you think.

Jim

Jim Curtin
USEPA Office of General Counsel
Water Law Office
202-564-5482
William Jefferson Clinton North Rm. 7451

<Deschutes Options_3-5-18.docx>

Message

From: Curtin, James [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=728048227D024E0CB67932883007A4F9-JCURTIN]
Sent: 6/26/2018 9:56:32 PM
To: Fotouhi, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=febaf0d56aab43f8a9174b18218c1182-Fotouhi, Da]
CC: Neugeboren, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cfd837ac503949a9820715b53ba921e6-SNEUGEBO]; Schroer, Lee [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=573fc5bb4942495d9fc3cd9438634244-LSCHROER]
Subject: Draft EPA R10 Deschutes TMDL decision rationale 6-26-18.docx
Attachments: Draft EPA R10 Deschutes TMDL decision rationale 6-26-18.docx

Flag: Follow up

David,

Here is the latest version of the Deschutes TMDL decision rationale. I have prepared some bullets for you summarizing the proposed R10 action. Ex. 5 Attorney Client (AC) I'll send that to you tomorrow after I incorporate comments from Steve, Lee, Ex. 5 Attorney Client (AC) ORC and the HQ TMDL folks.

The attachment is much longer, so I wanted to give you a head start.

Jim

Jim Curtin
USEPA Office of General Counsel
Water Law Office
202-564-5482
William Jefferson Clinton North Rm. 7451

Message

From: Mills, Derek [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0B8B3681245C47D18908FD79DB50A843-MILLS, DERE]
Sent: 11/22/2017 8:14:19 PM
To: Fotouhi, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=febaf0d56aab43f8a9174b18218c1182-Fotouhi, Da]
CC: Albores, Richard [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ce14f8709a5e4ac383af9d0b767fd8af-Ralbor02]
Subject: FW: Notice per the Directive of Deschutes River TMDL Complaint

David,

Ex. 5 Attorney Client (AC)

Derek Mills
Special Assistant, Office of General Counsel
U.S. Environmental Protection Agency
(202) 564-3341

From: Curtin, James
Sent: Wednesday, November 22, 2017 3:07 PM
To: Brown, Leah <Brown.Leah@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Mills, Derek <Mills.Derek@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>
Cc: Schroer, Lee <schroer.lee@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Stern, Allyn <Stern.Allyn@epa.gov>
Subject: RE: Notice per the Directive of Deschutes River TMDL Complaint

Thanks, Derek.

Ex. 5 Attorney Client (AC)

Jim

Jim Curtin
USEPA Office of General Counsel
Water Law Office
202-564-5482
William Jefferson Clinton North Rm. 7451

From: Brown, Leah
Sent: Wednesday, November 22, 2017 2:41 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Mills, Derek <Mills.Derek@epa.gov>; Curtin, James <curtin.james@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>
Cc: Schroer, Lee <schroer.lee@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Stern, Allyn <Stern.Allyn@epa.gov>
Subject: RE: Notice per the Directive of Deschutes River TMDL Complaint

Hi Steve,

Ex. 5 Attorney Client (AC)

Thanks,

Leah

From: Neugeboren, Steven
Sent: Wednesday, November 22, 2017 11:18 AM
To: Mills, Derek <Mills.Derek@epa.gov>; Curtin, James <curtin.james@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>
Cc: Schroer, Lee <schroer.lee@epa.gov>; Brown, Leah <Brown.Leah@epa.gov>
Subject: RE: Notice per the Directive of Deschutes River TMDL Complaint

Ex. 5 Attorney Client (AC)

Steve Neugeboren
Associate General Counsel for Water
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460
202 (564-5488)

From: Mills, Derek
Sent: Wednesday, November 22, 2017 1:06 PM
To: Curtin, James <curtin.james@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>
Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Schroer, Lee <schroer.lee@epa.gov>; Brown, Leah <Brown.Leah@epa.gov>
Subject: RE: Notice per the Directive of Deschutes River TMDL Complaint
Importance: High

Hi All,

I spoke with Kevin briefly about this yesterday. Since we don't have much time, I will try to summarize what I think potential options are. The goal is to have an option that R10, WLO (including management), and David are comfortable with ASAP since the letters are due to go out on Tuesday (11/28).

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Thanks!

Derek Mills
Special Assistant, Office of General Counsel
U.S. Environmental Protection Agency
(202) 564-3341

From: Curtin, James
Sent: Tuesday, November 21, 2017 3:40 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Schroer, Lee <schroer.lee@epa.gov>; Mills, Derek <Mills.Derek@epa.gov>; Brown, Leah <Brown.Leah@epa.gov>
Subject: Notice per the Directive of Deschutes River TMDL Complaint

David,

After talking with Derek, I wanted to get your thoughts about a proposed approach for complying with the complaint notification (Paragraph 3) requirement of the Administrator's Directive for the Deschutes River TMDL case.

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Any preliminary feedback is welcome. I will keep you apprised of any further information we develop.

Jim

Jim Curtin
USEPA Office of General Counsel
Water Law Office
202-564-5482
William Jefferson Clinton North Rm. 7451

Message

From: Fotouhi, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: 3/20/2018 2:23:12 PM
To: Curtin, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=728048227d024e0cb67932883007a4f9-JCURTIN]
CC: Neugeboren, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cfd837ac503949a9820715b53ba921e6-SNEUGEBO]; Schroer, Lee [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=573fc5bb4942495d9fc3cd9438634244-LSCHROER]
Subject: Re: Deschutes Litigation Strategy

Thank you

Sent from my iPhone

On Mar 20, 2018, at 10:12 AM, Curtin, James <curtin.james@epa.gov> wrote:

Thanks, David.

Ex. 5 Attorney Client (AC)

Jim

Jim Curtin
USEPA Office of General Counsel
Water Law Office
202-564-5482
William Jefferson Clinton North Rm. 7451

From: Fotouhi, David
Sent: Tuesday, March 20, 2018 10:06 AM
To: Curtin, James <curtin.james@epa.gov>
Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Schroer, Lee <schroer.lee@epa.gov>
Subject: RE: Deschutes Litigation Strategy

Ex. 5 Attorney Client (AC)

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Curtin, James
Sent: Monday, March 19, 2018 4:59 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Schroer, Lee <schroer.lee@epa.gov>
Subject: Deschutes Litigation Strategy

David,

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

I'm happy to provide additional information or answer any questions.

Thanks.

Jim

Jim Curtin
USEPA Office of General Counsel
Water Law Office
202-564-5482
William Jefferson Clinton North Rm. 7451

Message

From: Brown, Leah [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B8E396F718A74D0BB01F1E35B7319572-RINDNER, LE]
Sent: 6/27/2018 4:50:53 PM
To: Havard, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9350676809e8403994f1dfc2b7bfdcfe-JHAVARD]; Curtin, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=728048227d024e0cb67932883007a4f9-JCURTIN]; Neugeboren, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cfd837ac503949a9820715b53ba921e6-SNEUGEBO]; Schroer, Lee [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=573fc5bb4942495d9fc3cd9438634244-LSCHROER]
CC: Stern, Allyn [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2e2d6f5df08d4e9abbff2c0880407775-Stern, Allyn]; Steiner-Riley, Cara [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0bef7d04f2e64e4b8b90235a30cc7109-Steiner-Riley, Cara]; Hodgkiss, Miranda [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9d441ddb44ac4ed486058d2c2690b977-Hodgkiss, Miranda]; Croxton, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ca7b9940863640d5b96f4295ea3c9641-Croxton, Dave]; Goodin, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3eac342f280a4b9db4079c81f66d1913-JGoodin]
Subject: RE: Deschutes Bullets for David F
Attachments: Deschutes TMDL Decision Document Issues_Consolidated OGC_WB Comments_LB.docx

Thanks, Jim. My comments are attached. We have fully briefed the Regional Administrator on our TMDL action and are prepared to answer all of the comments Steve highlighted in the margin.

As to Jim H.'s point below,

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Leah Brown
Assistant Regional Counsel
(206) 553-8694
brown.leah@epa.gov

From: Havard, James
Sent: Wednesday, June 27, 2018 9:43 AM
To: Curtin, James <curtin.james@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Schroer, Lee <schroer.lee@epa.gov>; Brown, Leah <Brown.Leah@epa.gov>
Cc: Stern, Allyn <Stern.Allyn@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Hodgkiss, Miranda <Hodgkiss.Miranda@epa.gov>; Croxton, David <Croxton.David@epa.gov>; Goodin, John <Goodin.John@epa.gov>
Subject: RE: Deschutes Bullets for David F

Jim –

One additional comment on the substance:

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Thanks Jim

From: Curtin, James

Sent: Wednesday, June 27, 2018 12:19 PM

To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Havard, James <Havard.James@epa.gov>; Schroer, Lee <schroer.lee@epa.gov>; Brown, Leah <Brown.Leah@epa.gov>

Cc: Stern, Allyn <Stern.Allyn@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Hodgkiss, Miranda <Hodgkiss.Miranda@epa.gov>; Croxton, David <Croxton.David@epa.gov>; Goodin, John <Goodin.John@epa.gov>

Subject: RE: Deschutes Bullets for David F

Here is a clean, revised draft of the two-page issues paper OGC is developing for David F. I have done my best to address all comments, which do make this a far better document. I've left in the significant marginal comments for your reference.

If folks can give this one last look – and add any last bits - I'll then put it in final and send down to David.

Thanks again.

Jim

Jim Curtin

USEPA Office of General Counsel

Water Law Office

202-564-5482

William Jefferson Clinton North Rm. 7451

From: Neugeboren, Steven

Sent: Wednesday, June 27, 2018 11:32 AM

To: Havard, James <Havard.James@epa.gov>; Schroer, Lee <schroer.lee@epa.gov>; Brown, Leah <Brown.Leah@epa.gov>; Curtin, James <curtin.james@epa.gov>

Cc: Stern, Allyn <Stern.Allyn@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Hodgkiss, Miranda <Hodgkiss.Miranda@epa.gov>; Croxton, David <Croxton.David@epa.gov>; Goodin, John <Goodin.John@epa.gov>

Subject: RE: Deschutes Bullets for David F

My comments attached. I highlighted in yellow to make it easy.

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Steve Neugeboren

Associate General Counsel for Water

U.S. EPA

1200 Pennsylvania Ave., NW

Washington, DC 20460

202 (564-5488)

From: Havard, James

Sent: Wednesday, June 27, 2018 10:49 AM

To: Schroer, Lee <schroer.lee@epa.gov>; Brown, Leah <Brown.Leah@epa.gov>; Curtin, James <curtin.james@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>

Cc: Stern, Allyn <Stern.Allyn@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Hodgkiss, Miranda <Hodgkiss.Miranda@epa.gov>; Croxton, David <Croxton.David@epa.gov>; Goodin, John <Goodin.John@epa.gov>

Subject: RE: Deschutes Bullets for David F

Importance: High

Here are comments from the WB. Looping in John Goodin as well in case he will review as well.

Thanks

Jim

From: Schroer, Lee

Sent: Wednesday, June 27, 2018 8:49 AM

To: Brown, Leah <Brown.Leah@epa.gov>; Curtin, James <curtin.james@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Havard, James <Havard.James@epa.gov>

Cc: Stern, Allyn <Stern.Allyn@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Hodgkiss, Miranda <Hodgkiss.Miranda@epa.gov>; Croxton, David <Croxton.David@epa.gov>

Subject: RE: Deschutes Bullets for David F

Jim,

I added some comments on Leah's version.

Lee C. Schroer

Office of General Counsel (Mail Code 2355A)

Room 7518C William Jefferson Clinton Bldg North

Environmental Protection Agency

1200 Pennsylvania Avenue, N.W.

Washington, D.C. 20460

Tel: 202-564-5476

From: Brown, Leah

Sent: Tuesday, June 26, 2018 8:41 PM

To: Curtin, James <curtin.james@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Schroer, Lee <schroer.lee@epa.gov>; Havard, James <Havard.James@epa.gov>

Cc: Stern, Allyn <Stern.Allyn@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Hodgkiss, Miranda <Hodgkiss.Miranda@epa.gov>; Croxton, David <Croxton.David@epa.gov>

Subject: RE: Deschutes Bullets for David F

Thanks, Jim. My comments are attached.

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Leah Brown

Assistant Regional Counsel

(206) 553-8694

brown.leah@epa.gov

From: Curtin, James

Sent: Tuesday, June 26, 2018 2:50 PM

To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Schroer, Lee <schroer.lee@epa.gov>; Havard, James <Havard.James@epa.gov>; Brown, Leah <Brown.Leah@epa.gov>

Subject: Deschutes Bullets for David F

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC) Here's a draft. If you get comments back to me by 10am Wednesday morning, I can get this to David by noon.

Thanks.

Jim

Jim Curtin
USEPA Office of General Counsel
Water Law Office
202-564-5482
William Jefferson Clinton North Rm. 7451

Message

From: Curtin, James [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=728048227D024E0CB67932883007A4F9-JCURTIN]
Sent: 6/27/2018 4:19:05 PM
To: Neugeboren, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cfd837ac503949a9820715b53ba921e6-SNEUGEBO]; Havard, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9350676809e8403994f1dfc2b7bfdcfe-JHAVARD]; Schroer, Lee [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=573fc5bb4942495d9fc3cd9438634244-LSCHROER]; Brown, Leah [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b8e396f718a74d0bb01f1e35b7319572-Rindner, Le]
CC: Stern, Allyn [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2e2d6f5df08d4e9abbff2c0880407775-Stern, Allyn]; Steiner-Riley, Cara [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0bef7d04f2e64e4b8b90235a30cc7109-Steiner-Riley, Cara]; Hodgkiss, Miranda [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9d441ddb44ac4ed486058d2c2690b977-Hodgkiss, Miranda]; Croxton, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ca7b9940863640d5b96f4295ea3c9641-Croxton, Dave]; Goodin, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3eac342f280a4b9db4079c81f66d1913-JGoodin]
Subject: RE: Deschutes Bullets for David F
Attachments: Deschutes TMDL Decision Document Issues_Consolidated OGC_WB Comments.docx

Here is a clean, revised draft of the two-page issues paper OGC is developing for David F. I have done my best to address all comments, which do make this a far better document. I've left in the significant marginal comments for your reference.

If folks can give this one last look – and add any last bits - I'll then put it in final and send down to David.

Thanks again.

Jim

Jim Curtin
USEPA Office of General Counsel
Water Law Office
202-564-5482
William Jefferson Clinton North Rm. 7451

From: Neugeboren, Steven
Sent: Wednesday, June 27, 2018 11:32 AM
To: Havard, James <Havard.James@epa.gov>; Schroer, Lee <schroer.lee@epa.gov>; Brown, Leah <Brown.Leah@epa.gov>; Curtin, James <curtin.james@epa.gov>
Cc: Stern, Allyn <Stern.Allyn@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Hodgkiss, Miranda <Hodgkiss.Miranda@epa.gov>; Croxton, David <Croxton.David@epa.gov>; Goodin, John <Goodin.John@epa.gov>
Subject: RE: Deschutes Bullets for David F

My comments attached. I highlighted in yellow to make it easy.

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Steve Neugeboren
Associate General Counsel for Water
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460
202 (564-5488)

From: Havard, James
Sent: Wednesday, June 27, 2018 10:49 AM
To: Schroer, Lee <schroer.lee@epa.gov>; Brown, Leah <Brown.Leah@epa.gov>; Curtin, James <curtin.james@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>
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Subject: RE: Deschutes Bullets for David F
Importance: High

Here are comments from the WB. Looping in John Goodin as well in case he will review as well.

Thanks

Jim

From: Schroer, Lee
Sent: Wednesday, June 27, 2018 8:49 AM
To: Brown, Leah <Brown.Leah@epa.gov>; Curtin, James <curtin.james@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Havard, James <Havard.James@epa.gov>
Cc: Stern, Allyn <Stern.Allyn@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Hodgkiss, Miranda <Hodgkiss.Miranda@epa.gov>; Croxton, David <Croxton.David@epa.gov>
Subject: RE: Deschutes Bullets for David F

Jim,

I added some comments on Leah's version.

Lee C. Schroer
Office of General Counsel (Mail Code 2355A)
Room 7518C William Jefferson Clinton Bldg North
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460
Tel: 202-564-5476

From: Brown, Leah
Sent: Tuesday, June 26, 2018 8:41 PM
To: Curtin, James <curtin.james@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Schroer, Lee <schroer.lee@epa.gov>; Havard, James <Havard.James@epa.gov>
Cc: Stern, Allyn <Stern.Allyn@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Hodgkiss, Miranda <Hodgkiss.Miranda@epa.gov>; Croxton, David <Croxton.David@epa.gov>
Subject: RE: Deschutes Bullets for David F

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Ex. 5 Attorney Client (AC)

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Leah Brown
Assistant Regional Counsel
(206) 553-8694
brown.leah@epa.gov

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Sent: Tuesday, June 26, 2018 2:50 PM
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Subject: Deschutes Bullets for David F

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC) Here's a draft. If you get comments back to me by 10am Wednesday morning, I can get this to David by noon.

Thanks.

Jim

Jim Curtin
USEPA Office of General Counsel
Water Law Office
202-564-5482
William Jefferson Clinton North Rm. 7451

Message

From: Neugeboren, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFD837AC503949A9820715B53BA921E6-SNEUGEBO]
Sent: 6/27/2018 3:32:26 PM
To: Havard, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9350676809e8403994f1dfc2b7bfdcfe-JHAVARD]; Schroer, Lee [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=573fc5bb4942495d9fc3cd9438634244-LSCHROER]; Brown, Leah [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b8e396f718a74d0bb01f1e35b7319572-Rindner, Le]; Curtin, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=728048227d024e0cb67932883007a4f9-JCURTIN]
CC: Stern, Allyn [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2e2d6f5df08d4e9abbff2c0880407775-Stern, Allyn]; Steiner-Riley, Cara [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0bef7d04f2e64e4b8b90235a30cc7109-Steiner-Riley, Cara]; Hodgkiss, Miranda [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9d441ddb44ac4ed486058d2c2690b977-Hodgkiss, Miranda]; Croxton, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ca7b9940863640d5b96f4295ea3c9641-Croxton, Dave]; Goodin, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3eac342f280a4b9db4079c81f66d1913-JGoodin]
Subject: RE: Deschutes Bullets for David F
Attachments: steve comments Deschutes TMDL Decision Document Issues_LB.LS.WB.docx

My comments attached. I highlighted in yellow to make it easy.

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Steve Neugeboren
Associate General Counsel for Water
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1200 Pennsylvania Ave., NW
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Subject: RE: Deschutes Bullets for David F
Importance: High

Here are comments from the WB. Looping in John Goodin as well in case he will review as well.

Thanks

Jim

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To: Brown, Leah <Brown.Leah@epa.gov>; Curtin, James <curtin.james@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Havard, James <Havard.James@epa.gov>
Cc: Stern, Allyn <Stern.Allyn@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Hodgkiss, Miranda <Hodgkiss.Miranda@epa.gov>; Croxton, David <Croxton.David@epa.gov>
Subject: RE: Deschutes Bullets for David F

Jim,

I added some comments on Leah's version.

Lee C. Schroer
Office of General Counsel (Mail Code 2355A)
Room 7518C William Jefferson Clinton Bldg North
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460
Tel: 202-564-5476

From: Brown, Leah
Sent: Tuesday, June 26, 2018 8:41 PM
To: Curtin, James <curtin.james@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Schroer, Lee <schroer.lee@epa.gov>; Havard, James <Havard.James@epa.gov>
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Assistant Regional Counsel
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Subject: Deschutes Bullets for David F

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Ex. 5 Attorney Client (AC) Here's a draft. If you get comments back to me by 10am Wednesday morning, I can get this to David by noon.

Thanks.

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Jim Curtin
USEPA Office of General Counsel
Water Law Office
202-564-5482
William Jefferson Clinton North Rm. 7451

Message

From: Havard, James [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=9350676809E8403994F1DFC2B7BFDCFE-JHAVARD]
Sent: 6/27/2018 1:20:23 PM
To: Goodin, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3eac342f280a4b9db4079c81f66d1913-JGoodin]
Subject: FW: Deschutes Bullets for David F
Attachments: Deschutes TMDL Decision Document Issues_LB.LS.docx

Importance: High

We will review this at 10. Do you want to review before it goes forward?

From: Schroer, Lee
Sent: Wednesday, June 27, 2018 8:49 AM
To: Brown, Leah <Brown.Leah@epa.gov>; Curtin, James <curtin.james@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Havard, James <Havard.James@epa.gov>
Cc: Stern, Allyn <Stern.Allyn@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Hodgkiss, Miranda <Hodgkiss.Miranda@epa.gov>; Croxton, David <Croxton.David@epa.gov>
Subject: RE: Deschutes Bullets for David F

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Lee C. Schroer
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Environmental Protection Agency
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Subject: RE: Deschutes Bullets for David F

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Ex. 5 Attorney Client (AC)

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Assistant Regional Counsel
(206) 553-8694
brown.leah@epa.gov

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Sent: Tuesday, June 26, 2018 2:50 PM

To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Schroer, Lee <schroer.lee@epa.gov>; Havard, James <Havard.James@epa.gov>; Brown, Leah <Brown.Leah@epa.gov>

Subject: Deschutes Bullets for David F

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC) Here's a draft. If you get comments back to me by 10am Wednesday morning, I can get this to David by noon.

Thanks.

Jim

Jim Curtin

USEPA Office of General Counsel

Water Law Office

202-564-5482

William Jefferson Clinton North Rm. 7451

Message

Sent: 11/20/2017 4:12:11 PM
To: Arrigoni, Holly [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f2316d8d80d844e286449994c7718ccc-Arrigon, Holly]; Monschein, Eric [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=110281a30e814820830c14fa5075ff90-EMonsche]
Subject: RE: INTERNAL and DELIBERATIVE - Deschutes Decision Rationale #1 - Please hold time

Hi Holly –

I've accepted this meeting. Do we have the appropriate other folks from WB to participate in this? I'm not fully steeped in the issues. Is reasonable assurance an issue? (if so, please loop in Stephanie). Any WQS issues we should loop Rosaura in on?

Eric – Upstream/downstream issues will likely arise, if you can call in, please do. Thanks

Jim

-----Original Appointment-----

From: Zell, Christopher
Sent: Monday, November 13, 2017 10:08 AM
To: Zell, Christopher; Havard, James; Curtin, James; Brown, Leah; Croxton, Dave
Cc: Arrigoni, Holly; Monschein, Eric
Subject: INTERNAL and DELIBERATIVE - Deschutes Decision Rationale #1 - Please hold time
When: Monday, November 20, 2017 10:30 AM-11:30 AM (UTC-08:00) Pacific Time (US & Canada).
Where: Conference Line Ex. 6 Personal Privacy (PP) passcode: Ex. 6 Personal Privacy (PP)

Hi Folks,

The purpose of this meeting is to begin mapping our decision rationale for the Deschutes TMDL in Washington per action items / next steps identified in our briefing with Dan Opalski.

Best,

Chris

Message

From: Curtin, James [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=728048227D024E0CB67932883007A4F9-JCURTIN]
Sent: 3/2/2018 10:26:44 PM
To: Havard, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9350676809e8403994f1dfc2b7bfdcfe-JHAVARD]; Hunter, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=32905162cc58495da107db89c7dea903-Hunter, Chr]
Subject: RE: Deschutes TP edits

Just one edit in yellow.

Jim

Jim Curtin
USEPA Office of General Counsel
Water Law Office
202-564-5482
William Jefferson Clinton North Rm. 7451

From: Havard, James
Sent: Friday, March 02, 2018 4:42 PM
To: Hunter, Christopher <Hunter.Christopher@epa.gov>; Curtin, James <curtin.james@epa.gov>
Subject: Deschutes TP edits
Importance: High

Chris – Here are my edits as we just discussed.

Jim C – Look ok?

From: Hunter, Christopher
Sent: Friday, March 02, 2018 2:44 PM
To: Havard, James <Havard.James@epa.gov>
Subject:

Thanks for forwarding the past update Jim, that helped a lot. Here is my draft for you and Jim C. to edit:

Deschutes River TMDLs

- Northwest Environmental Advocates (NWEA) filed its single-count complaint, on Monday Nov 6th, in the W.D. of Washington (Seattle) court alleging EPA failed to carry out its nondiscretionary duty to approve or disapprove the Deschutes River TMDLs within thirty days after submission by the state.
- R10 received the original TMDL submission package in December 2015 and has not yet taken action. The state made a supplemental submission in July 2017 that arguably include new load calculations for some of the TMDLs. R10 has not acted on that either.
- NWEA has indicated it would like to postpone briefings for six months to provide time for discovery and review. EPA and NWEA will file a joint status report on March 9, 2018.

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

We will be scheduling briefings with OWOW, R10, and OGC to discuss recommendations for senior leaders for the joint status report and for the broader questions about completing TMDLs review.

Background

- **Ex. 5 Attorney Client (AC)** The TMDLs ,which consisted of 73 water quality impaired segments by five pollutants (temperature, pH, fecal coliform, dissolved oxygen, and fine sediment).

Ex. 5 Attorney Client (AC)

Message

From: Croxton, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CA7B9940863640D5B96F4295EA3C9641-CROXTON, DAVE]
Sent: 3/2/2018 6:06:36 PM
To: Havard, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9350676809e8403994f1dfc2b7bfdcfe-JHAVARD]
Subject: Deschutes

Hi Jim,

Wondering if you have had any progress pushing Deschutes story and briefing package? **Ex. 5 Attorney Client (AC)**

Ex. 5 Attorney Client (AC)

Thanks
Dave

Message

From: Curtin, James [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=728048227D024E0CB67932883007A4F9-JCURTIN]
Sent: 11/9/2017 7:03:11 PM
To: Lewicki, Chris [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7688d5b97aa94ba6af2f38984d479b56-CLewicki]
CC: Havard, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9350676809e8403994f1dfc2b7bfdcfe-JHAVARD]; Arrigoni, Holly [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f2316d8d80d844e286449994c7718ccc-Arrigon, Holly]
Subject: RE: For Curtin: Need your review on Deschutes TPs

Jim H –

As edited by me.

Deschutes River TMDLs

- Northwest Environmental Advocates (NWEA) filed its single-count complaint, on Monday Nov 6th, in the W.D. of Washington (Seattle) court alleging EPA failed to carry out its nondiscretionary duty to approve or disapprove the Deschutes River TMDLs within thirty days after submission by the state.
- R10 received the original TMDL submission package in December 2015 and has not yet taken action.
- The state made a supplemental submission in July 2017 that arguably include new load calculations for some of the TMDLs. R10 has not acted on that either.
- EPA's answer is due 60 days after service of the complaint – early January 2018.
- The Region has identified a number of problems with the 2015 and 2017 submissions and will be discussing those with the State:

Ex. 5 Attorney Client (AC)

- We will be scheduling briefings for OW to discuss R10, OWOW and OGC's recommendations for which TMDLs to approve and disapprove.

Background

- EPA received NWEA's notice of intent to sue on August 25, 2017.
- EPA R10 coordinated with WA Ecology on the July 2017 revisions of the 2015 TMDLs.
- The State submitted a new request for approval on July 17, 2017, which asked EPA to review and approve only a subset of TMDLs (eighteen segments impaired for temperature, fecal coliform, and fine sediment).

Ex. 5 Attorney Client (AC)

Jim

Jim Curtin
USEPA Office of General Counsel
Water Law Office
202-564-5482
William Jefferson Clinton North Rm. 7451

From: Lewicki, Chris
Sent: Thursday, November 09, 2017 1:43 PM
To: Curtin, James <curtin.james@epa.gov>
Cc: Havard, James <Havard.James@epa.gov>; Arrigoni, Holly <Arrigoni.Holly@epa.gov>
Subject: For Curtin: Need your review on Deschutes TPs
Importance: High

Jim,

Could you please edit these TPs I drafted and send your edits directly to Havard (I'm on leave starting in a few minutes).

Jim Havard, sorry, you'll need to clean these up after Curtin reviews.

Deschutes River TMDLs

- Northwest Environmental Advocates (NWEA) filed its single-count complaint, on Monday Nov 6th, in the W.D. of Washington (Seattle) court alleging EPA has a nondiscretionary duty to approve or disapprove the Deschutes River TMDLs within thirty days after submission by a state.
- EPA's answer is due 60 days after service of the complaint.
- The Region will be discussing with the State:

Ex. 5 Attorney Client (AC)

- We will be scheduling briefings for OW to discuss R10, OWOW and OGC's recommendations for which TMDLs to approve and disapprove.

Background

- NWEA filed its notice of intent to sue on August 25, 2017.
- EPA R10 coordinated with WA Ecology on revisions of the 2015 TMDLs after its formal submission.
- The State submitted a new request for approval on July 17, 2017, which asked EPA to review and approve only a subset of TMDLs (eighteen segments impaired for temperature, fecal coliform, and fine sediment).

Ex. 5 Attorney Client (AC)

Message

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Sent: 6/22/2018 9:20:14 PM
To: sonya.shea@usdoj.gov [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=user022b79d0]; Brown, Leah [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b8e396f718a74d0bb01f1e35b7319572-Rindner, Le]; Havard, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9350676809e8403994f1dfc2b7bfdcfe-JHAVARD]; Hunter, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=32905162cc58495da107db89c7dea903-Hunter, Chr]; Lewicki, Chris [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7688d5b97aa94ba6af2f38984d479b56-CLewicki]
Subject: RE: Deschutes TMDL Action Letter & Enclosure
Attachments: Draft EPA R10 Deschutes TMDL Action ltr_clean_JC.docx

See attached for my edits/comments on the draft approval/disapproval letter. I agree with the way you have both resolved the issues discussed below.

Thank you. Great work.

Jim

Jim Curtin
USEPA Office of General Counsel
Water Law Office
202-564-5482
William Jefferson Clinton North Rm. 7451

From: Shea, Sonya (ENRD) [mailto:Sonya.Shea@usdoj.gov]
Sent: Thursday, June 21, 2018 6:24 PM
To: Brown, Leah <Brown.Leah@epa.gov>
Cc: Curtin, James <curtin.james@epa.gov>
Subject: Re: Deschutes TMDL Action Letter & Enclosure

Thanks, Leah. This all makes sense.

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Sent from my iPhone

On Jun 21, 2018, at 6:17 PM, Brown, Leah <Brown.Leah@epa.gov> wrote:

Thanks for your comments, Sonya.

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Thanks.

Leah Brown
Assistant Regional Counsel
(206) 553-8694
brown.leah@epa.gov

From: Shea, Sonya (ENRD) [<mailto:Sonya.Shea@usdoj.gov>]
Sent: Thursday, June 21, 2018 11:54 AM
To: Brown, Leah <Brown.Leah@epa.gov>; Curtin, James <curtin.james@epa.gov>
Subject: RE: Deschutes TMDL Action Letter & Enclosure

Attorney Client, Attorney Work Product, Privileged and Confidential

Thanks, Leah.

Ex. 5 Attorney Client (AC)

From: Brown, Leah <Brown.Leah@epa.gov>
Sent: Thursday, June 21, 2018 1:51 PM
To: Shea, Sonya (ENRD) <sshea@ENRD.USDOJ.GOV>; Curtin, James <curtin.james@epa.gov>
Subject: Deschutes TMDL Action Letter & Enclosure

Hi Jim and Sonya,

The Deschutes TMDL action letter and enclosure are attached. If you have any major comments or concerns please let me know by COB tomorrow.

Thank you!

Leah Brown

Assistant Regional Counsel
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue, Suite 900
Seattle, WA 98101
(206) 553-8694
brown.leah@epa.gov

Message

From: Hunter, Christopher [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=32905162CC58495DA107DB89C7DEA903-HUNTER, CHR]
Sent: 6/21/2018 7:09:42 PM
To: Havard, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9350676809e8403994f1dfc2b7bfdcfe-JHAVARD]
Subject: Deschutes RA language

Jim,
From looking at the current draft (which is apparently still being edited), this is the current language on RA. It has been changed from the first draft, but I can't tell if it's exactly the language you suggested

- Reasonable Assurances

Ex. 5 Deliberative Process (DP)

Chris Hunter
202.566.1454
Watershed Branch, Office of Water
US Environmental Protection Agency

Deschutes TMDL & Litigation

Background

The Deschutes River, Percival Creek, and Budd Inlet Tributaries (Phase 1) TMDL study area is located in south Puget in Thurston and Lewis Counties, Washington. The Washington Department of Ecology submitted the final Phase 1 Deschutes TMDL to EPA for approval on December 17, 2015.¹ The TMDL addresses 73 Water Quality Limited Segments impaired by five pollutants (temperature, dissolved oxygen [DO], pH, fecal coliform, and fine sediment).

Ex. 5 Deliberative Process (DP)

Litigation

On September 6, 2017, Northwest Environmental Advocates (NWEA) filed a complaint against EPA alleging violation of section 303(d)(2) of the Clean Water Act (CWA) for failure to act on the Deschutes River TMDL submission. Section 303(d)(2) requires EPA to either approve or disapprove a state's TMDL submission within 30 days of submittal.

As part of the ongoing litigation, EPA has stated in briefs that we will act on the Deschutes TMDL by June 29, 2018. The case is now fully briefed and we are awaiting the court's reply, which will either grant our request to stay the case until June 29, or render a summary judgment that EPA must act by June 29.

Current Status

The CWA requires EPA to either approve or disapprove state-submitted TMDLs, and if we disapprove, we are required to develop replacement TMDLs within 30 days.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Next Steps

A briefing on the proposed TMDL decisions for the RA is currently scheduled for May 21st. In addition, the Region will coordinate with HQ OWOW staff on needed background/briefing materials for AAOW. Once final decisions have been made on the TMDL, the Region will need to work quickly with HQ and the State on the disapproved segments to determine how replacement TMDLs will be developed.

¹ Marine segments (Phase 2, Budd Inlet) are planned for completion in 2020.

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From: Hunter, Christopher [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=32905162CC58495DA107DB89C7DEA903-HUNTER, CHR]
Sent: 4/27/2018 7:49:57 PM
To: Havard, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9350676809e8403994f1dfc2b7bfdcfe-JHAVARD]
CC: Curtin, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=728048227d024e0cb67932883007a4f9-JCURTIN]
Subject: Updated Deschutes paper
Attachments: Deschutes TMDL background 4-27.docx

Hi Jim,

One more update on the 1-pager. I heard from the Region that they met today!

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Thanks for looking at this today Jim C!

Chris Hunter
202.566.1454
Watershed Branch, Office of Water
US Environmental Protection Agency

Deschutes TMDL & Litigation

Background

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Deschutes TMDL & Litigation

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Message

From: Hunter, Christopher [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=32905162CC58495DA107DB89C7DEA903-HUNTER, CHR]
Sent: 6/15/2018 1:25:00 PM
To: Havard, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9350676809e8403994f1dfc2b7bfdcfe-JHAVARD]
Subject: RE: Deschutes TMDLs

I think she meant that she didn't make any further changes in response to your comment bubbles. Your redline strikeout/additions are still in there.

Chris Hunter
202.566.1454
Watershed Branch, Office of Water
US Environmental Protection Agency

From: Havard, James
Sent: Friday, June 15, 2018 9:23 AM
To: Hunter, Christopher <Hunter.Christopher@epa.gov>
Subject: Re: Deschutes TMDLs

Miranda says she decided not to make edits. Should make sure she will take my edits on the RA background or we should elevate to Croxton. Thanks.

Sent from my iPhone

On Jun 15, 2018, at 9:11 AM, Hunter, Christopher <Hunter.Christopher@epa.gov> wrote:

Jim,
It looks like there are either edits or responses to all of the comments HQ added this week. There are still a couple of places that people are asking for Jim Curtin's thoughts on a specific issue (page 11, 34), but there seem to be responses to all of your questions and your line edits on RA are still in there. I don't think any further edits have been made to address the RA concerns beyond what you put in redline.

Chris

Chris Hunter
202.566.1454
Watershed Branch, Office of Water
US Environmental Protection Agency

From: Havard, James
Sent: Friday, June 15, 2018 7:58 AM
To: Lewicki, Chris <Lewicki.Chris@epa.gov>; Hunter, Christopher <Hunter.Christopher@epa.gov>
Cc: Curtin, James <curtin.james@epa.gov>; Santell, Stephanie <Santell.Stephanie@epa.gov>
Subject: FW: Deschutes TMDLs

Hi folks – Have my edits to fix that RA discussion been accepted? They were targeted and consistent with National TMDL checklist memo. If not, what do you recommend? Thanks! Jim

From: Hodgkiss, Miranda

Sent: Thursday, June 14, 2018 2:34 PM

To: Havard, James <Havard.James@epa.gov>; Curtin, James <curtin.james@epa.gov>

Cc: Lewicki, Chris <Lewicki.Chris@epa.gov>; Hunter, Christopher <Hunter.Christopher@epa.gov>; Monschein, Eric <Monschein.Eric@epa.gov>; Croxton, David <Croxton.David@epa.gov>; Brown, Leah <Brown.Leah@epa.gov>; Fidis, Alexander <Fidis.Alexander@epa.gov>

Subject: RE: Deschutes TMDLs

Thanks all for the latest round of comments. I've gone through and addressed them to the best of my ability – let me know if you have questions about any changes.

Ex. 5 Deliberative Process (DP)

Jim H, I've noted your comments in Section 3. If they are of big concern to you, we can talk about them further, but I have decided for now not to revise that section. Let me know if you want to discuss.

We are nearing the end of June, so I will be limiting revisions to the document from this point on to address typos, etc.

Thanks for all of your help!

Miranda Hodgkiss
Office of Water and Watersheds
U.S. EPA Region 10
(206) 553-0692
hodgkiss.miranda@epa.gov

From: Havard, James

Sent: Wednesday, June 13, 2018 2:07 PM

To: Hodgkiss, Miranda <Hodgkiss.Miranda@epa.gov>; Curtin, James <curtin.james@epa.gov>

Cc: Lewicki, Chris <Lewicki.Chris@epa.gov>; Hunter, Christopher <Hunter.Christopher@epa.gov>; Monschein, Eric <Monschein.Eric@epa.gov>

Subject: Deschutes TMDLs

Hi folks. I have added my comments. You'll see I include some information on reasonable assurance in bubble comments. Much of it is just FYI/background.

Jim C- I included a few comments for your consideration (search for "Jim C").

Miranda: This looks like a bear of a project and I appreciate your hard work, analysis and efforts to address our comments.

Thanks!

Ex. 6 Personal Privacy (PP)

Message

From: Curtin, James [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=728048227D024E0CB67932883007A4F9-JCURTIN]
Sent: 6/15/2018 2:36:33 AM
To: Hodgkiss, Miranda [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9d441ddb44ac4ed486058d2c2690b977-Hodgkiss, Miranda]
CC: Havard, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9350676809e8403994f1dfc2b7bfdcfe-JHAVARD]; Lewicki, Chris [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7688d5b97aa94ba6af2f38984d479b56-CLewicki]; Hunter, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=32905162cc58495da107db89c7dea903-Hunter, Chr]; Monschein, Eric [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=110281a30e814820830c14fa5075ff90-EMonsche]; Croxton, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ca7b9940863640d5b96f4295ea3c9641-Croxton, Dave]; Brown, Leah [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b8e396f718a74d0bb01f1e35b7319572-Rindner, Le]; Fidis, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e76bf6d0e88745d69528ddbf60346461-Fidis, Alexander]
Subject: Re: Deschutes TMDLs

Thanks, Miranda. Sounds like we're fine.

Sent from my iPhone

On Jun 14, 2018, at 5:53 PM, Hodgkiss, Miranda <Hodgkiss.Miranda@epa.gov> wrote:

Ex. 5 Attorney Client (AC)

Feel free to call me if you want to discuss further.

Thanks,

Miranda Hodgkiss
Office of Water and Watersheds
U.S. EPA Region 10
(206) 553-0692
hodgkiss.miranda@epa.gov

From: Curtin, James
Sent: Thursday, June 14, 2018 12:35 PM

To: Hodgkiss, Miranda <Hodgkiss.Miranda@epa.gov>; Havard, James <Havard.James@epa.gov>
Cc: Lewicki, Chris <Lewicki.Chris@epa.gov>; Hunter, Christopher <Hunter.Christopher@epa.gov>;
Monschein, Eric <Monschein.Eric@epa.gov>; Croxton, David <Croxton.David@epa.gov>; Brown, Leah
<Brown.Leah@epa.gov>; Fidis, Alexander <Fidis.Alexander@epa.gov>
Subject: RE: Deschutes TMDLs

Thanks, Miranda.

Ex. 5 Attorney Client (AC)

Jim

Jim Curtin
USEPA Office of General Counsel
Water Law Office
202-564-5482
William Jefferson Clinton North Rm. 7451

From: Hodgkiss, Miranda
Sent: Thursday, June 14, 2018 2:34 PM
To: Havard, James <Havard.James@epa.gov>; Curtin, James <curtin.james@epa.gov>
Cc: Lewicki, Chris <Lewicki.Chris@epa.gov>; Hunter, Christopher <Hunter.Christopher@epa.gov>;
Monschein, Eric <Monschein.Eric@epa.gov>; Croxton, David <Croxton.David@epa.gov>; Brown, Leah
<Brown.Leah@epa.gov>; Fidis, Alexander <Fidis.Alexander@epa.gov>
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Sent: Wednesday, June 13, 2018 2:07 PM

To: Hodgkiss, Miranda <Hodgkiss.Miranda@epa.gov>; Curtin, James <curtin.james@epa.gov>

Cc: Lewicki, Chris <Lewicki.Chris@epa.gov>; Hunter, Christopher <Hunter.Christopher@epa.gov>;
Monschein, Eric <Monschein.Eric@epa.gov>

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Miranda: This looks like a bear of a project and I appreciate your hard work, analysis and efforts to address our comments.

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Ex. 6 Personal Privacy (PP)



Region 10 Briefing Paper for the Office of the Regional Administrator

MEETING/EVENT TITLE: Deschutes Total Maximum Daily Load (TMDL) Action

MEETING DATE: May 21, 2018

LOCATION: ET Conference Room

PREPARED BY: Miranda Hodgkiss

DATE: May 17, 2018

ATTENDEES: Dan Opalski, Laurie Mann, Miranda Hodgkiss, Leah Brown, Cara Steiner-Riley

EXTERNAL PARTICIPANTS: N/A

I. REQUESTING OFFICE

R10 OWW – Watershed Unit

II. TIMING

EPA has informed the Court that it intends to approve and/or disapprove the Deschutes Watershed TMDL by June 29, 2018. We anticipated the Court will enter an Order that we do so. court-ordered deadline of June 29, 2018, for Agency action on the Deschutes TMDL.

III. PURPOSE

We are holding this briefing to inform the RA of our proposed action on the Deschutes Watershed TMDL. The draft decision document includes proposed Agency action will include a number of disapprovals of TMDLs for waters impaired by multiple pollutants submitted by Washington Department of Ecology (Ecology). The draft decision document also includes approvals Agency will also be approving a portion of some of the state-submitted TMDLs. The purpose of this briefing is to provide the RA with sufficient information about the Deschutes TMDL and resulting litigation to make an approval/disapproval decision pre-decisional information, in order to increase the RA's awareness and allow for coordination with counterparts at Headquarters.

IV. BACKGROUND/HISTORY

Timeline

December 17, 2015	Ecology submitted the final Deschutes TMDL to EPA for approval.
July 17, 2017	Ecology submitted supplemental TMDL information, including new bacteria loads and a temperature equation.
September 6, 2017	Northwest Environmental Advocates (NWEA) filed a complaint against EPA alleging violation of section 303(d)(2) of the Clean Water Act (CWA) for failure to act on the TMDL submission within the statutorily required 30-day timeframe.
June 29, 2018	Date by which EPA has said it will take action on the Deschutes TMDLs. Anticipated court-ordered deadline for Agency action.

Background

The Washington Department of Ecology submitted the final Deschutes TMDL to EPA for approval on December 17, 2015. The TMDL addresses 73 waterbody-pollutant pairs for five pollutants – fecal coliform, temperature, dissolved oxygen (DO), pH, and fine sediment. EPA must approve or disapprove take action on each waterbody-

pollutant pair – essentially requiring 73 individual decisions to either approve or disapprove loadings developed for a waterbody-pollutant pair. Region 10 OWW and ORC have been consulting with counterparts at Headquarters in the Watershed Branch and Office of General Counsel (OGC) regarding the Agency’s planned action on this TMDL.

This TMDL is the first phase of a multi-phase process to address water quality impairments for waters flowing into south Puget Sound. The watershed addressed in this phase includes the Deschutes River and its tributaries, Percival Creek, and the tributaries to Budd Inlet. The Deschutes River originates in heavily forested regions of the Bald Hills, then flows northward into Capitol Lake (in Olympia), then into Budd Inlet (south Puget Sound). Capitol Lake was formed in 1951 as an impoundment of the Deschutes estuary to create a reflecting pool for the State Capitol Building. The TMDL watershed is situated within the boundaries of Thurston and Lewis Counties, Washington, and includes the cities or towns of Olympia, Lacey, Tumwater, and Rainier. Ecology has stated that a second phase of the TMDL to address the marine segments of Budd Inlet, impaired for DO and bacteria, is planned for completion in 2021. No plans have been made by Ecology to develop a TMDL for Capitol Lake, which is impaired for total phosphorus and bacteria.

Litigation

On September 6, 2017, NWEA filed a complaint against EPA alleging violation of section 303(d)(2) of the CWA for failure to act on the Deschutes River TMDL submission. Section 303(d)(2) requires EPA to either approve or disapprove a state’s TMDL submission within 30 days of submittal. EPA has represented in recent court filings that it will be ready to complete its action no later than June 29, 2018, and it is very likely that the court will soon order EPA to complete its action by this date.

V. KEY ISSUES

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

VII. ROLL-OUT / COMMUNICATIONS PLAN

Other than notifying the State, NWEA, and the court of our final action, a communication plan has not been developed, nor is one anticipated to be necessary.

VIII. NEXT STEPS / UPCOMING DEADLINES

The Region has developed an anticipated schedule for meeting the June 29th deadline. This was put forth to the court in a declaration filed on April 4, 2018, by David Croxton, the Watershed Unit manager. The following steps represent our planned course for developing decision documents and briefing management:

- *April 23 – May 18:* R10 OWW, ORC, OGC and Office of Water (Headquarters) review draft decision document.
- *May 22 – June 15:* R10 Watershed Unit shares draft decision document with RA, Office of Water AA, and OGC for senior management review.
- *June 18 – June 28:* R10 Watershed Unit finalizes review.
- *June 29:* Agency finalizes Deschutes TMDL decision document and takes final action on TMDL.

Message

From: Hunter, Christopher [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=32905162CC58495DA107DB89C7DEA903-HUNTER, CHR]
Sent: 5/16/2018 9:02:31 PM
To: Havard, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9350676809e8403994f1dfc2b7bfdcfe-JHAVARD]
Subject: FW: ACTION BY NOON THURSDAY: Update needed for Note/Paper for Dave Ross/OW-IO re: Deschutes WA TMDLs -- potential disapprovals
Attachments: Deschutes TMDL background 5-15-18.docx

Correct, updated version

Chris Hunter
202.566.1454
Watershed Branch, Office of Water
US Environmental Protection Agency

From: Wall, Tom
Sent: Tuesday, May 15, 2018 1:48 PM
To: Havard, James <Havard.James@epa.gov>; Hunter, Christopher <Hunter.Christopher@epa.gov>
Cc: Goodin, John <Goodin.John@epa.gov>
Subject: ACTION BY NOON THURSDAY: Update needed for Note/Paper for Dave Ross/OW-IO re: Deschutes WA TMDLs -- potential disapprovals

John would like us to lightly update the paper and note below to reflect the latest from the court. I'll be on leave Thursday so just cc: me as it goes back to John. Thank you,

Tom Wall, Director
Watershed Restoration, Assessment and Protection Division
Office of Wetlands, Oceans and Watersheds
U.S. EPA
Wall.tom@epa.gov
202/564-4179

From: Wall, Tom
Sent: Thursday, May 03, 2018 2:31 PM
To: Goodin, John <Goodin.John@epa.gov>; Sandra Connors (<Connors.Sandra@epa.gov> <Connors.Sandra@epa.gov>
Cc: Havard, James <Havard.James@epa.gov>; Monschein, Eric <Monschein.Eric@epa.gov>; Hunter, Christopher <Hunter.Christopher@epa.gov>
Subject: Note for Dave Ross/OW-IO re: Deschutes WA TMDLs -- potential disapprovals

John – here is a note and paper you could send to Dave about R10's potential disapproval of a number of the Deschutes WA TMDLs:

Dave,

Ex. 5 Deliberative Process (DP)

We can provide additional information if that would be helpful.

Deschutes TMDL & Litigation

Background

The Deschutes River, Percival Creek, and Budd Inlet Tributaries (Phase 1) TMDL study area is located in south Puget in Thurston and Lewis Counties, Washington. The Washington Department of Ecology submitted the final Phase 1 Deschutes TMDL to EPA for approval on December 17, 2015.¹ That document addresses a total of 73 waterbody-pollutant combinations, caused by temperature, dissolved oxygen [DO], pH, fecal coliform, and fine sediment.

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As part of the ongoing litigation, EPA has stated in briefs that we will act on the Deschutes TMDL by June 29, 2018. The judge has denied EPA's motion to stay the case until June 29, but did not yet ruled on the plaintiff's motion for summary judgment, and recommended a consent decree or stipulated entry of judgement to ensure EPA action on the TMDL. OGC is reviewing options while the Region continues work on the TMDL decision.

Current Status

The CWA requires EPA to either approve or disapprove state-submitted TMDLs, and if we disapprove, we are required to develop a replacement TMDL within 30 days.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

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¹ Marine segments (Phase 2, Budd Inlet) are planned for completion in 2020.

Message

From: Hunter, Christopher [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=32905162CC58495DA107DB89C7DEA903-HUNTER, CHR]
Sent: 5/16/2018 12:51:24 PM
To: Havard, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9350676809e8403994f1dfc2b7bfdcfe-JHAVARD]
Subject: FW: ACTION BY NOON THURSDAY: Update needed for Note/Paper for Dave Ross/OW-IO re: Deschutes WA TMDLs -- potential disapprovals
Attachments: Deschutes TMDL background 5-02-18.docx

For your review – an updated Deschutes 1-pager. I only made edits to the litigation section. The Region is still planning on briefing the RA on Monday, and will share briefing materials with us tomorrow.

Chris

Chris Hunter
202.566.1454
Watershed Branch, Office of Water
US Environmental Protection Agency

From: Wall, Tom
Sent: Tuesday, May 15, 2018 1:48 PM
To: Havard, James <Havard.James@epa.gov>; Hunter, Christopher <Hunter.Christopher@epa.gov>
Cc: Goodin, John <Goodin.John@epa.gov>
Subject: ACTION BY NOON THURSDAY: Update needed for Note/Paper for Dave Ross/OW-IO re: Deschutes WA TMDLs -- potential disapprovals

John would like us to lightly update the paper and note below to reflect the latest from the court. I'll be on leave Thursday so just cc: me as it goes back to John. Thank you,

Tom Wall, Director
Watershed Restoration, Assessment and Protection Division
Office of Wetlands, Oceans and Watersheds
U.S. EPA
Wall.tom@epa.gov
202/564-4179

From: Wall, Tom
Sent: Thursday, May 03, 2018 2:31 PM
To: Goodin, John <Goodin.John@epa.gov>; Sandra Connors (<Connors.Sandra@epa.gov> <Connors.Sandra@epa.gov>
Cc: Havard, James <Havard.James@epa.gov>; Monschein, Eric <Monschein.Eric@epa.gov>; Hunter, Christopher <Hunter.Christopher@epa.gov>
Subject: Note for Dave Ross/OW-IO re: Deschutes WA TMDLs -- potential disapprovals

John – here is a note and paper you could send to Dave about R10's potential disapproval of a number of the Deschutes WA TMDLs:

Dave,

Ex. 5 Deliberative Process (DP)

We can provide additional information if that would be helpful.

Message

From: Curtin, James [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=728048227D024E0CB67932883007A4F9-JCURTIN]
Sent: 10/4/2017 10:43:16 PM
To: Brown, Leah [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b8e396f718a74d0bb01f1e35b7319572-Rindner, Le]; Zell, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a7206bbb71ff41c999629b86cc25c7e4-Zell, Chris]; Croxton, Dave [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ca7b9940863640d5b96f4295ea3c9641-Croxton, Dave]
CC: sonya.shea@usdoj.gov [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=user022b79d0]; Havard, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9350676809e8403994f1dfc2b7bfdcfe-JHAVARD]; Arrigoni, Holly [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f2316d8d80d844e286449994c7718ccc-Arrigon, Holly]; Schroer, Lee [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=573fc5bb4942495d9fc3cd9438634244-LSCHROER]
Subject: Deschutes TMDL issues

A few follow-up thoughts after our conversation today and before your call with Ecology tomorrow:

First, here's the chronology as I understand it:

December 2015 – WA submits Deschutes River, Percival Creek and Budd Inlet Tributaries TMDLs (temp, bacteria, DO, pH, sediment).

July 17, 2017 – WA re-submits TMDL, asking EPA to “focus” only on 23 segments impaired by temp, bacteria and sediment. WA does not expressly withdraw the rest of the 2015 submission.

- July submission “augments” the 2015 TMDL by “clarifying” temperature and bacteria allocations. Clarification adds a formula to calculate daily temperature allocations based on 0.3 C HUA and also adds daily numbers for bacteria for various segments.

August 25, 2017 (August 28, 2017 rec'd) – NWEA sends 60-day NOI based on failure to act on December 2015 submittal.

October 27, 2017 – Earliest date NWEA may file suit.

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Happy to discuss this more after your talk with WA tomorrow.

Jim

Jim Curtin
USEPA Office of General Counsel
Water Law Office
202-564-5482
William Jefferson Clinton North Rm. 7451

Message

From: Curtin, James [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=728048227D024E0CB67932883007A4F9-JCURTIN]
Sent: 6/12/2018 3:18:43 AM
To: Brown, Leah [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b8e396f718a74d0bb01f1e35b7319572-Rindner, Le]
CC: Havard, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9350676809e8403994f1dfc2b7bfdcfe-JHAVARD]; Lewicki, Chris [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7688d5b97aa94ba6af2f38984d479b56-CLewicki]; Hunter, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=32905162cc58495da107db89c7dea903-Hunter, Chr]; Hodgkiss, Miranda [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9d441ddb44ac4ed486058d2c2690b977-Hodgkiss, Miranda]; Schroer, Lee [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=573fc5bb4942495d9fc3cd9438634244-LSCHROER]
Subject: Re: My thoughts on latest draft Deschutes decision document

Ex. 5 Attorney Client (AC)

Thanks for everybody's hard work.

Sent from my iPhone

> On Jun 11, 2018, at 6:18 PM, Brown, Leah <Brown.Leah@epa.gov> wrote:

Ex. 5 Attorney Client (AC)

>
> Leah Brown
> Assistant Regional Counsel
> (206) 553-8694
> brown.leah@epa.gov
>
> -----Original Message-----
> From: Curtin, James
> Sent: Monday, June 11, 2018 10:38 AM
> To: Havard, James <Havard.James@epa.gov>; Lewicki, Chris <Lewicki.Chris@epa.gov>; Hunter, Christopher <Hunter.Christopher@epa.gov>; Hodgkiss, Miranda <Hodgkiss.Miranda@epa.gov>; Brown, Leah <Brown.Leah@epa.gov>
> Cc: Schroer, Lee <schroer.lee@epa.gov>
> Subject: My thoughts on latest draft Deschutes decision document
>
> I'm "typing" this on my iPhone with one finger, so please excuse any glitches.

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

>
>
> Sent from my iPhone

Message

From: Curtin, James [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=728048227D024E0CB67932883007A4F9-JCURTIN]
Sent: 6/8/2018 8:49:20 PM
To: Lewicki, Chris [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7688d5b97aa94ba6af2f38984d479b56-CLewicki]; Brown, Leah [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b8e396f718a74d0bb01f1e35b7319572-Rindner, Le]
CC: Hodgkiss, Miranda [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9d441ddb44ac4ed486058d2c2690b977-Hodgkiss, Miranda]; Havard, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9350676809e8403994f1dfc2b7bfdcfe-JHAVARD]; Hunter, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=32905162cc58495da107db89c7dea903-Hunter, Chr]
Subject: RE: CORRECTION 2PM (not 3pm) RE: Deschutes TMDL

Got it.

Jim

Jim Curtin
USEPA Office of General Counsel
Water Law Office
202-564-5482
William Jefferson Clinton North Rm. 7451

From: Lewicki, Chris
Sent: Friday, June 08, 2018 4:42 PM
To: Curtin, James <curtin.james@epa.gov>; Brown, Leah <Brown.Leah@epa.gov>
Cc: Hodgkiss, Miranda <Hodgkiss.Miranda@epa.gov>; Havard, James <Havard.James@epa.gov>; Hunter, Christopher <Hunter.Christopher@epa.gov>
Subject: CORRECTION 2PM (not 3pm) RE: Deschutes TMDL

Mtg is at 2pm

Chris Lewicki
CWA 303(d) Litigation Coordinator
Watershed Branch
Office of Wetlands, Oceans and Watersheds
202-566-1293

Chris Lewicki

From: Curtin, James
Sent: Friday, June 08, 2018 4:40 PM
To: Lewicki, Chris <Lewicki.Chris@epa.gov>; Brown, Leah <Brown.Leah@epa.gov>
Cc: Hodgkiss, Miranda <Hodgkiss.Miranda@epa.gov>; Havard, James <Havard.James@epa.gov>; Hunter, Christopher <Hunter.Christopher@epa.gov>
Subject: RE: Deschutes TMDL

Great. Thanks. Talk to you then.

Jim

Jim Curtin
USEPA Office of General Counsel
Water Law Office
202-564-5482
William Jefferson Clinton North Rm. 7451

From: Lewicki, Chris
Sent: Friday, June 08, 2018 4:11 PM
To: Curtin, James <curtin.james@epa.gov>; Brown, Leah <Brown.Leah@epa.gov>
Cc: Hodgkiss, Miranda <Hodgkiss.Miranda@epa.gov>; Havard, James <Havard.James@epa.gov>; Hunter, Christopher <Hunter.Christopher@epa.gov>
Subject: RE: Deschutes TMDL

Jim , The meeting is on Monday at 3pm. Call Jim Havard's office

From: Curtin, James
Sent: Friday, June 08, 2018 3:17 PM
To: Brown, Leah <Brown.Leah@epa.gov>
Cc: Hodgkiss, Miranda <Hodgkiss.Miranda@epa.gov>; Havard, James <Havard.James@epa.gov>; Lewicki, Chris <Lewicki.Chris@epa.gov>; Hunter, Christopher <Hunter.Christopher@epa.gov>
Subject: RE: Deschutes TMDL

Hi Leah,

As you might expect, my trip to Seattle this week put me behind schedule on a great number of things. I'm going to print out the draft decision document today and take it home this weekend. By Monday, I'll be in better shape to speak to its defensibility.

Incidentally, **Ex. 6 Personal Privacy (PP)**

If able, I'll call in to Jim H, Chris H, and Chris L's meeting on Monday. Can someone tell me when it is and give me a # to call?

In any event, I'll send my thoughts to all of you by email or vm.

Jim

Jim Curtin
USEPA Office of General Counsel
Water Law Office
202-564-5482
William Jefferson Clinton North Rm. 7451

From: Brown, Leah
Sent: Friday, June 08, 2018 2:52 PM
To: Curtin, James <curtin.james@epa.gov>
Subject: Deschutes TMDL

Hi Jim,

I just heard from Miranda that Chris Hunter and Chris Lewicki are meeting with Jim Havard on Monday to discuss the Deschutes TMDL. It sounds like Jim H. may be waiting to hear your thoughts on our review action before he reviews the TSD. Have you had a chance to speak with him? Do you generally feel comfortable with the TSD? I think Miranda did a nice job of responding to your comments but I'd appreciate your perspective, given that this is the first time I've reviewed a TMDL. I'm in a meeting for the next hour or so but let me know if you'd like to chat.

Thanks,

Leah

Leah Brown
Assistant Regional Counsel
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue, Suite 900
Seattle, WA 98101
(206) 553-8694
brown.leah@epa.gov

Message

From: Brown, Leah [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B8E396F718A74D0BB01F1E35B7319572-RINDNER, LE]
Sent: 6/8/2018 8:28:46 PM
To: Lewicki, Chris [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7688d5b97aa94ba6af2f38984d479b56-CLewicki]; Curtin, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=728048227d024e0cb67932883007a4f9-JCURTIN]
CC: Hodgkiss, Miranda [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9d441ddb44ac4ed486058d2c2690b977-Hodgkiss, Miranda]; Havard, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9350676809e8403994f1dfc2b7bfdcfe-JHAVARD]; Hunter, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=32905162cc58495da107db89c7dea903-Hunter, Chr]
Subject: RE: Deschutes TMDL

Thanks, Jim. We very much appreciate your review.

Ex. 6 Personal Privacy (PP)

Happy weekend to all.

Leah Brown
Assistant Regional Counsel
(206) 553-8694
brown.leah@epa.gov

From: Lewicki, Chris
Sent: Friday, June 8, 2018 1:11 PM
To: Curtin, James <curtin.james@epa.gov>; Brown, Leah <Brown.Leah@epa.gov>
Cc: Hodgkiss, Miranda <Hodgkiss.Miranda@epa.gov>; Havard, James <Havard.James@epa.gov>; Hunter, Christopher <Hunter.Christopher@epa.gov>
Subject: RE: Deschutes TMDL

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From: Curtin, James
Sent: Friday, June 08, 2018 3:17 PM
To: Brown, Leah <Brown.Leah@epa.gov>
Cc: Hodgkiss, Miranda <Hodgkiss.Miranda@epa.gov>; Havard, James <Havard.James@epa.gov>; Lewicki, Chris <Lewicki.Chris@epa.gov>; Hunter, Christopher <Hunter.Christopher@epa.gov>
Subject: RE: Deschutes TMDL

Hi Leah,

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In any event, I'll send my thoughts to all of you by email or vm.

Jim

Jim Curtin
USEPA Office of General Counsel
Water Law Office
202-564-5482
William Jefferson Clinton North Rm. 7451

From: Brown, Leah
Sent: Friday, June 08, 2018 2:52 PM
To: Curtin, James <curtin.james@epa.gov>
Subject: Deschutes TMDL

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Leah

Leah Brown
Assistant Regional Counsel
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue, Suite 900
Seattle, WA 98101
(206) 553-8694
brown.leah@epa.gov

Message

From: Hodgkiss, Miranda [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=9D441DDB44AC4ED486058D2C2690B977-HODGKISS, MIRANDA]
Sent: 6/8/2018 8:10:04 PM
To: Curtin, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=728048227d024e0cb67932883007a4f9-JCURTIN]; Brown, Leah [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b8e396f718a74d0bb01f1e35b7319572-Rindner, Le]
CC: Havard, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9350676809e8403994f1dfc2b7bfdcfe-JHAVARD]; Lewicki, Chris [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7688d5b97aa94ba6af2f38984d479b56-CLewicki]; Hunter, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=32905162cc58495da107db89c7dea903-Hunter, Chr]
Subject: RE: Deschutes TMDL

Thanks Jim! Chris L is going to send you the call-in information for the Monday meeting. I really appreciate you taking the time to look at this.

Miranda Hodgkiss
Office of Water and Watersheds
U.S. EPA Region 10
(206) 553-0692
hodgkiss.miranda@epa.gov

From: Curtin, James
Sent: Friday, June 8, 2018 12:17 PM
To: Brown, Leah <Brown.Leah@epa.gov>
Cc: Hodgkiss, Miranda <Hodgkiss.Miranda@epa.gov>; Havard, James <Havard.James@epa.gov>; Lewicki, Chris <Lewicki.Chris@epa.gov>; Hunter, Christopher <Hunter.Christopher@epa.gov>
Subject: RE: Deschutes TMDL

Hi Leah,

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Ex. 6 Personal Privacy (PP)

If able, I'll call in to Jim H, Chris H, and Chris L's meeting on Monday. Can someone tell me when it is and give me a # to call?

In any event, I'll send my thoughts to all of you by email or vm.

Jim

Jim Curtin
USEPA Office of General Counsel
Water Law Office

202-564-5482

William Jefferson Clinton North Rm. 7451

From: Brown, Leah
Sent: Friday, June 08, 2018 2:52 PM
To: Curtin, James <curtin.james@epa.gov>
Subject: Deschutes TMDL

Hi Jim,

I just heard from Miranda that Chris Hunter and Chris Lewicki are meeting with Jim Havard on Monday to discuss the Deschutes TMDL. It sounds like Jim H. may be waiting to hear your thoughts on our review action before he reviews the TSD. Have you had a chance to speak with him? Do you generally feel comfortable with the TSD? I think Miranda did a nice job of responding to your comments but I'd appreciate your perspective, given that this is the first time I've reviewed a TMDL. I'm in a meeting for the next hour or so but let me know if you'd like to chat.

Thanks,

Leah

Leah Brown
Assistant Regional Counsel
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue, Suite 900
Seattle, WA 98101
(206) 553-8694
brown.leah@epa.gov

Message

From: Lewicki, Chris [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=7688D5B97AA94BA6AF2F38984D479B56-CLEWICKI]
Sent: 6/7/2018 6:06:14 PM
To: Havard, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9350676809e8403994f1dfc2b7bfdcfe-JHAVARD]
CC: Hunter, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=32905162cc58495da107db89c7dea903-Hunter, Chr]
Subject: Deschutes TMDLs question

Jim:

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Message

From: Curtin, James [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=728048227D024E0CB67932883007A4F9-JCURTIN]
Sent: 3/5/2018 9:17:06 PM
To: Brown, Leah [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b8e396f718a74d0bb01f1e35b7319572-Rindner, Le]; Croxton, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ca7b9940863640d5b96f4295ea3c9641-Croxton, Dave]; Havard, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9350676809e8403994f1dfc2b7bfdcfe-JHAVARD]; Hunter, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=32905162cc58495da107db89c7dea903-Hunter, Chr]; Lewicki, Chris [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7688d5b97aa94ba6af2f38984d479b56-CLewicki]
CC: Schroer, Lee [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=573fc5bb4942495d9fc3cd9438634244-LSCHROER]
Subject: RE: Deschutes meeting with John

Ex. 5 Attorney Client (AC)

Jim

Jim Curtin
USEPA Office of General Counsel
Water Law Office
202-564-5482
William Jefferson Clinton North Rm. 7451

From: Brown, Leah
Sent: Monday, March 05, 2018 3:17 PM
To: Croxton, David <Croxton.David@epa.gov>; Havard, James <Havard.James@epa.gov>; Curtin, James <curt.in.james@epa.gov>; Hunter, Christopher <Hunter.Christopher@epa.gov>; Lewicki, Chris <Lewicki.Chris@epa.gov>
Subject: RE: Duschutes meeting with John

Thanks, Jim H. and Jim C

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

From: Croxton, David
Sent: Monday, March 5, 2018 11:58 AM
To: Brown, Leah <Brown.Leah@epa.gov>
Subject: FW: Duschutes meeting with John

From: Havard, James
Sent: Monday, March 05, 2018 11:24 AM
To: Croxton, David <Croxton.David@epa.gov>
Cc: Brown, Robert <Brown.Robert@epa.gov>; Curtin, James <curtin.james@epa.gov>; Hunter, Christopher <Hunter.Christopher@epa.gov>; Lewicki, Chris <Lewicki.Chris@epa.gov>
Subject: FW: Duschutes meeting with John

Here are my edits added. We'll be meeting with John at 5 eastern today. Look for a briefing schedule from Chris Howard.

Ex. 5 Attorney Client (AC)

Thanks! Jim

From: Curtin, James
Sent: Monday, March 05, 2018 1:41 PM
To: Havard, James <Havard.James@epa.gov>; Croxton, David <Croxton.David@epa.gov>
Cc: Hunter, Christopher <Hunter.Christopher@epa.gov>; Lewicki, Chris <Lewicki.Chris@epa.gov>; Brown, Leah <Brown.Leah@epa.gov>
Subject: RE: Duschutes meeting with John

Here are my suggested edits to the Deschutes options paper. If there is going to be a call later today (Monday), please invite Leah.

Jim

Jim Curtin
USEPA Office of General Counsel
Water Law Office
202-564-5482
William Jefferson Clinton North Rm. 7451

From: Curtin, James
Sent: Monday, March 05, 2018 11:21 AM
To: Havard, James <Havard.James@epa.gov>; Croxton, David <Croxton.David@epa.gov>
Cc: Hunter, Christopher <Hunter.Christopher@epa.gov>; Lewicki, Chris <Lewicki.Chris@epa.gov>
Subject: RE: Duschutes meeting with John

I'm free.

Jim

Jim Curtin
USEPA Office of General Counsel
Water Law Office
202-564-5482
William Jefferson Clinton North Rm. 7451

From: Havard, James
Sent: Monday, March 05, 2018 11:15 AM
To: Croxton, David <Croxton.David@epa.gov>; Curtin, James <curtin.james@epa.gov>
Cc: Hunter, Christopher <Hunter.Christopher@epa.gov>; Lewicki, Chris <Lewicki.Chris@epa.gov>
Subject: Duschutes meeting with John
Importance: High

Hey guys. John very busy this week. Can you be available meet with him at 5:00 eastern today? We'd use Dave's paper. I'll have a few edits later today. Thanks! Jim

Message

From: Zell, Christopher [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A7206BBB71FF41C999629B86CC25C7E4-ZELL, CHRIS]
Sent: 11/21/2017 12:07:08 AM
To: Havard, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9350676809e8403994f1dfc2b7bfdcfe-JHAVARD]; Curtin, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=728048227d024e0cb67932883007a4f9-JCURTIN]; Brown, Leah [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b8e396f718a74d0bb01f1e35b7319572-Rindner, Le]; Croxton, Dave [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ca7b9940863640d5b96f4295ea3c9641-Croxton, Dave]
CC: Arrigoni, Holly [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f2316d8d80d844e286449994c7718ccc-Arrigon, Holly]; Monschein, Eric [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=110281a30e814820830c14fa5075ff90-EMonsche]
Subject: RE: INTERNAL and DELIBERATIVE - Deschutes Decision Rationale #1 - Please hold time -- downstream standard issue

Hi Jim,

Ex. 5 Deliberative Process (DP)

Best,

Chris

From: Havard, James
Sent: Monday, November 20, 2017 11:36 AM
To: Zell, Christopher <zell.christopher@epa.gov>; Curtin, James <curtin.james@epa.gov>; Brown, Leah <Brown.Leah@epa.gov>; Croxton, Dave <Croxton.David@epa.gov>
Cc: Arrigoni, Holly <Arrigoni.Holly@epa.gov>; Monschein, Eric <Monschein.Eric@epa.gov>
Subject: RE: INTERNAL and DELIBERATIVE - Deschutes Decision Rationale #1 - Please hold time -- downstream standard issue

Folks – FYI, I had to jump off the call mid-call (for about 5 minutes) to answer a call from John Goodin.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

-----Original Appointment-----

From: Zell, Christopher
Sent: Monday, November 13, 2017 10:08 AM
To: Zell, Christopher; Havard, James; Curtin, James; Brown, Leah; Croxton, Dave
Cc: Arrigoni, Holly; Monschein, Eric
Subject: INTERNAL and DELIBERATIVE - Deschutes Decision Rationale #1 - Please hold time
When: Monday, November 20, 2017 10:30 AM-11:30 AM (UTC-08:00) Pacific Time (US & Canada).
Where: Conference Line Ex. 6 Personal Privacy (PP)

Hi Folks,

The purpose of this meeting is to begin mapping our decision rationale for the Deschutes TMDL in Washington per action items / next steps identified in our briefing with Dan Opalski.

Best,

Chris

Message

From: Croxton, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CA7B9940863640D5B96F4295EA3C9641-CROXTON, DAVE]
Sent: 2/16/2018 1:11:44 AM
To: Lewicki, Chris [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7688d5b97aa94ba6af2f38984d479b56-CLewicki]; Hunter, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=32905162cc58495da107db89c7dea903-Hunter, Chr]
CC: Havard, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9350676809e8403994f1dfc2b7bfdcfe-JHAVARD]
Subject: RE: Deschutes TMDL review

Yes this is tough, sorry for the scheduling issues. **Ex. 6 Personal Privacy (PP)** but went ahead anyways since we are under time pressure from multiple parties to get this sorted-out, briefed before Goodin, and to take a final action. I'll work individually with the both of you to provide information or answer questions.

From: Lewicki, Chris
Sent: Thursday, February 15, 2018 3:21 PM
To: Croxton, David <Croxton.David@epa.gov>; Hunter, Christopher <Hunter.Christopher@epa.gov>
Cc: Havard, James <Havard.James@epa.gov>
Subject: RE: Deschutes TMDL review

Dave,

I'm looking at calendar and **Ex. 6 Personal Privacy (PP)** I can only make first hour of this Deschutes meeting.

Chris Lewicki
CWA 303(d) Litigation Coordinator
Watershed Branch
Office of Wetlands, Oceans and Watersheds
202-566-1293

Chris Lewicki

-----Original Appointment-----

From: Croxton, David
Sent: Thursday, February 08, 2018 7:59 PM
To: Croxton, David; Zell, Christopher; Hodgkiss, Miranda; Havard, James; Curtin, James; Lewicki, Chris; Brown, Leah; Hunter, Christopher
Cc: Mann, Laurie; Steiner-Riley, Cara
Subject: Deschutes TMDL review
When: Thursday, February 22, 2018 12:30 PM-2:00 PM (UTC-08:00) Pacific Time (US & Canada).
Where: conference **Ex. 6 Personal Privacy (PP)** code **Ex. 6 Personal Privacy (PP)**

Message

From: Curtin, James [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=728048227D024E0CB67932883007A4F9-JCURTIN]
Sent: 6/27/2018 1:02:26 AM
To: Brown, Leah [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b8e396f718a74d0bb01f1e35b7319572-Rindner, Le]
CC: Neugeboren, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cfd837ac503949a9820715b53ba921e6-SNEUGEBO]; Schroer, Lee [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=573fc5bb4942495d9fc3cd9438634244-LSCHROER]; Havard, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9350676809e8403994f1dfc2b7bfdcfe-JHAVARD]; Stern, Allyn [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2e2d6f5df08d4e9abbff2c0880407775-Stern, Allyn]; Steiner-Riley, Cara [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0bef7d04f2e64e4b8b90235a30cc7109-Steiner-Riley, Cara]; Hodgkiss, Miranda [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9d441ddb44ac4ed486058d2c2690b977-Hodgkiss, Miranda]; Croxton, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ca7b9940863640d5b96f4295ea3c9641-Croxton, Dave]
Subject: Re: Deschutes Bullets for David F

Those are good comments and edits, Leah. I'll add them tomorrow.

Sent from my iPhone

On Jun 26, 2018, at 8:41 PM, Brown, Leah <Brown.Leah@epa.gov> wrote:

Thanks, Jim. My comments are attached.

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Leah Brown
Assistant Regional Counsel
(206) 553-8694
brown.leah@epa.gov

From: Curtin, James
Sent: Tuesday, June 26, 2018 2:50 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Schroer, Lee <schroer.lee@epa.gov>; Havard, James <Havard.James@epa.gov>; Brown, Leah <Brown.Leah@epa.gov>
Subject: Deschutes Bullets for David F

David F has asked me to prepare some bullets discussing any significant legal/programmatic issues in the proposed Deschutes decision. Here's a draft. If you get comments back to me by 10am Wednesday morning, I can get this to David by noon.

Thanks.

Jim

Jim Curtin
USEPA Office of General Counsel
Water Law Office
202-564-5482
William Jefferson Clinton North Rm. 7451

<Deschutes TMDL Decision Document Issues_LB.docx>

Message

From: Brown, Leah [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B8E396F718A74D0BB01F1E35B7319572-RINDNER, LE]
Sent: 6/27/2018 12:41:27 AM
To: Curtin, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=728048227d024e0cb67932883007a4f9-JCURTIN]; Neugeboren, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cfd837ac503949a9820715b53ba921e6-SNEUGEBO]; Schroer, Lee [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=573fc5bb4942495d9fc3cd9438634244-LSCHROER]; Havard, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9350676809e8403994f1dfc2b7bfdcfe-JHAVARD]
CC: Stern, Allyn [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2e2d6f5df08d4e9abbff2c0880407775-Stern, Allyn]; Steiner-Riley, Cara [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0bef7d04f2e64e4b8b90235a30cc7109-Steiner-Riley, Cara]; Hodgkiss, Miranda [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9d441ddb44ac4ed486058d2c2690b977-Hodgkiss, Miranda]; Croxton, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ca7b9940863640d5b96f4295ea3c9641-Croxton, Dave]
Subject: RE: Deschutes Bullets for David F
Attachments: Deschutes TMDL Decision Document Issues_LB.docx

Thanks, Jim. My comments are attached.

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Leah Brown
Assistant Regional Counsel
(206) 553-8694
brown.leah@epa.gov

From: Curtin, James
Sent: Tuesday, June 26, 2018 2:50 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Schroer, Lee <schroer.lee@epa.gov>; Havard, James <Havard.James@epa.gov>; Brown, Leah <Brown.Leah@epa.gov>
Subject: Deschutes Bullets for David F

David F has asked me to prepare some bullets discussing any significant legal/programmatic issues in the proposed Deschutes decision. Here's a draft. If you get comments back to me by 10am Wednesday morning, I can get this to David by noon.

Thanks.

Jim

Jim Curtin
USEPA Office of General Counsel
Water Law Office
202-564-5482
William Jefferson Clinton North Rm. 7451

Deschutes TMDL Decision Document: Legal and Programmatic Issues

This paper identifies and discusses two legal and programmatic issues presented by Region 10's proposed Deschutes Watershed TMDL decision. EPA is under court order to "complete its action" by June 29, 2018, on the State of Washington's 73 TMDLs, submitted in 2015 and amended in 2017, for bacteria, temperature, DO, pH and fine sediment.

Region 10 and ORC have coordinated closely with OWOW and OGC during the Deschutes TMDL decision process and the drafting of all supporting documents. Additionally, Region 10 has been closely coordinating with Washington Department of Ecology ("Ecology"). Ecology is aware of EPA's proposed decision, and Region 10 staff met with Ecology staff last week to discuss the potential replacement TMDLs. R10's proposed decision is as follows:

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Deschutes TMDL Decision Document: Legal and Programmatic Issues

This paper identifies and discusses two legal and programmatic issues presented by Region 10's proposed Deschutes Watershed TMDL decision. EPA is under court order to "complete its action" by June 29, 2018 on the State of Washington's 73 TMDLs, submitted in 2015 and amended in 2017, for bacteria, temperature, DO, pH and fine sediment.

Region 10 and ORC have coordinated closely with OWOW and OGC during the Deschutes TMDL decision process and the drafting of all supporting documents. R10's proposed decision is as follows:

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Message

From: Arrigoni, Holly [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=F2316D8D80D844E286449994C7718CCC-ARRIGON, HOLLY]
Sent: 10/23/2017 7:38:56 PM
To: Havard, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9350676809e8403994f1dfc2b7bfdcfe-JHAVARD]
Subject: Deschutes TP - do we need something new this week?

Here's what went through a month ago. Do you want to include that some discussions are happening or should we wait another week when we may have something more meaty?

From: Lewicki, Chris
Sent: Thursday, September 14, 2017 12:27 PM
To: Havard, James <Havard.James@epa.gov>
Cc: Arrigoni, Holly <Arrigoni.Holly@epa.gov>
Subject: Litigation TPs

Jim: I got the OVEC filing date wrong. It's not till first week of Oct, but will likely be extended a couple of weeks. So we don't need a TP on that yet.

Thanks to Holly for her Deschutes River NOI draft TP.

Deschutes River TMDL NOI

- On August 25, 2017, EPA received a notice of intent to sue from Northwest Environmental Advocates (NWEA). The NOI was filed for failure to approve or disapprove the submission.
- EPA R10 coordinated with WA Ecology on revisions of the 2015 TMDL after its formal submission. The State submitted a new request for approval on July 17, 2017, which asked EPA to review and approve only a subset of segments (eighteen) and parameters (temperature, fecal coliform, and fine sediment), while not modifying the original 2015 TMDL submission document.

Ex. 5 Deliberative Process (DP)

- OWOW, Region 10 and OGC are working to identify next steps.

Background

- In 2015, Washington Department of Ecology submitted a TMDL for a total of 23 river segments (the Deschutes River and associated tributaries) and 5 parameters (temperature, fecal coliform, bacteria, dissolved oxygen, pH, and fine sediments).
- Region 10 had been unable to conduct a proper review of the TMDL prior to the state's submission in 2015. Since the TMDL was submitted, R10 has conducted a more thorough review, determining that there are deficiencies in the TMDLs for those segments the State has requested EPA to neither review nor act on.

Chris Lewicki
CWA 303(d) Litigation Coordinator
Watershed Branch
Office of Wetlands, Oceans and Watersheds
202-566-1293

Chris Lewicki

Message

From: Lewicki, Chris [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7688d5b97aa94ba6af2f38984d479b56-CLewicki]
Sent: 10/30/2017 4:20:10 PM
To: Brown, Leah [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b8e396f718a74d0bb01f1e35b7319572-Rindner, Le]; Arrigoni, Holly [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f2316d8d80d844e286449994c7718ccc-Arrigoni, Holly]
CC: Havard, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9350676809e8403994f1dfc2b7bfdcfe-JHAVARD]; Croxton, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ca7b9940863640d5b96f4295ea3c9641-Croxton, Dave]; Curtin, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=728048227d024e0cb67932883007a4f9-JCURTIN]
Subject: RE: Deschutes TMDL Paper
Attachments: Deschutes TMDL NOI Briefing_draft_10232017_v2_JC CLL .docx

Here are a few additional thoughts

Chris Lewicki
CWA 303(d) Litigation Coordinator
Watershed Branch
Office of Wetlands, Oceans and Watersheds
202-566-1293

Chris Lewicki

From: Brown, Leah
Sent: Monday, October 30, 2017 11:29 AM
To: Curtin, James <curtin.james@epa.gov>; Arrigoni, Holly <Arrigoni.Holly@epa.gov>
Cc: Havard, James <Havard.James@epa.gov>; Lewicki, Chris <Lewicki.Chris@epa.gov>; Croxton, Dave <Croxton.David@epa.gov>
Subject: RE: Deschutes TMDL Paper

I'm available at 9:30 PT/12:30 ET. My day is otherwise completely booked.

From: Curtin, James
Sent: Monday, October 30, 2017 6:56 AM
To: Arrigoni, Holly <Arrigoni.Holly@epa.gov>; Brown, Leah <Brown.Leah@epa.gov>; Zell, Christopher <zell.christopher@epa.gov>
Cc: Havard, James <Havard.James@epa.gov>; Lewicki, Chris <Lewicki.Chris@epa.gov>
Subject: RE: Deschutes TMDL Paper

I'm generally free all day if you and Leah want to have a call.

Jim

Jim Curtin
USEPA Office of General Counsel
Water Law Office

202-564-5482

William Jefferson Clinton North Rm. 7451

From: Arrigoni, Holly

Sent: Monday, October 30, 2017 9:11 AM

To: Curtin, James <curtin.james@epa.gov>; Brown, Leah <Brown.Leah@epa.gov>; Zell, Christopher <zell.christopher@epa.gov>

Cc: Havard, James <Havard.James@epa.gov>; Lewicki, Chris <Lewicki.Chris@epa.gov>

Subject: RE: Deschutes TMDL Paper

Thanks Jim,

Unfortunately Chris is on leave all week - I told him I would work with Leah on revisions. Should the 3 of us discuss? I am free all day. Leah, let me know how you would like to proceed.

Holly

Holly Arrigoni
U.S. Environmental Protection Agency
Office of Wetlands, Oceans, and Watersheds
Watershed Branch (4503T)
Phone: 202-564-4781

From: Curtin, James

Sent: Friday, October 27, 2017 4:38 PM

To: Brown, Leah <Brown.Leah@epa.gov>; Zell, Christopher <zell.christopher@epa.gov>

Cc: Arrigoni, Holly <Arrigoni.Holly@epa.gov>; Havard, James <Havard.James@epa.gov>; Lewicki, Chris <Lewicki.Chris@epa.gov>

Subject: Deschutes TMDL Paper

Hi Leah and Chris,

Attached are my (hopefully not too repetitive) comments. They should be fairly self-explanatory.

Ex. 5 Attorney Client (AC)

I'm happy to discuss my comments and the paper in greater detail on Monday

Jim

Jim Curtin
USEPA Office of General Counsel
Water Law Office

202-564-5482

William Jefferson Clinton North Rm. 7451

Message

From: Curtin, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=728048227d024e0cb67932883007a4f9-JCURTIN]
Sent: 10/27/2017 8:37:45 PM
To: Brown, Leah [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b8e396f718a74d0bb01f1e35b7319572-Rindner, Le]; Zell, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a7206bbb71ff41c999629b86cc25c7e4-Zell, Chris]
CC: Arrigoni, Holly [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f2316d8d80d844e286449994c7718ccc-Arrigon, Holly]; Havard, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9350676809e8403994f1dfc2b7bfdcfe-JHAVARD]; Lewicki, Chris [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7688d5b97aa94ba6af2f38984d479b56-CLewicki]
Subject: Deschutes TMDL Paper
Attachments: Deschutes TMDL NOI Briefing_draft_10232017_v2_JC.docx

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Ex. 5 Attorney Client (AC)

I'm happy to discuss my comments and the paper in greater detail on Monday

Jim

Jim Curtin
USEPA Office of General Counsel
Water Law Office
202-564-5482
William Jefferson Clinton North Rm. 7451



Region 10 Briefing Paper for the Office of the Regional Administrator

MEETING/EVENT TITLE:

"Deschutes TMDL Notice of Intent from Northwest Environmental Advocates – How to Respond"

MEETING DATE: 11/7/2017 10:00 am – 10:45 am

LOCATION: Dan's Office

CONFERENCE CALL LINE: Ex. 5 Personal Privacy (PP) Code: Ex. 6 Personal Privacy (PP)

PREPARED BY: Chris Zell and Leah Brown

DATE: 10/19/2017

INVITED EPA ATTENDEES: Dan Opalski; Jim Havard; Jim Curtin; Holly Arrigoni; Chris Lewicki; Dave Croxton; Laurie Mann; Leah Brown; Jennifer Byrne; Cara Steiner-Riley; and Chris Zell

I. REQUESTING OFFICE

Office of Water and Watersheds / Watershed Unit

II. TIMING

On August 23, 2017, NWEA provided a Notice of Intent (NOI) to sue EPA under the Clean Water Act (CWA) for failure to perform the mandatory duty of approving or disapproving the Deschutes River TMDL within the statutorily mandated 30-day timeframe. NWEA may file suit 60 days from NOI submittal (~ October 22, 2017). Based on preliminary conversations with NWEA on 10/13/2017, we understand that NWEA intends to file soon after the 60-day NOI period expires.

III. PURPOSE

- Provide HQ (Watershed Branch) a summary snapshot of the Deschutes TMDL and administrative history
- Share outcomes from informal NWEA conversations held with Ecology on 10/13/2017

Ex. 5 Deliberative Process (DP)

- Meeting outcomes include agreement on recommended path forward and identification of additional briefings to confirm recommendation

IV. BACKGROUND/HISTORY

The Deschutes River, Percival Creek, and Budd Inlet Tributaries (Phase 1) TMDL study area (186 mi²) is located in south Puget Sound and is situated within the boundaries of Thurston and Lewis Counties, Washington. The study area includes the major cities or towns of Olympia, Lacey, Tumwater, and Rainier. During early stages of TMDL development (~2005-2014), Ecology planned to submit a TMDL addressing impairments in containing both freshwater (Deschutes) and marine (Budd Inlet) water quality limited segments.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Ecology decided to split the TMDL into freshwater and marine segments. Ecology submitted the freshwater (Phase 1) Deschutes TMDL to EPA for approval on December 17, 2015.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

The submitted 2015 TMDL package included a request that EPA approve allocations for 73 Water Quality Limited Segments (WQLSs) impaired by five pollutants (temperature, dissolved oxygen [DO], pH, fecal coliform, and fine sediment). Beginning in February 2016, EPA ~~has discussed with and~~ Ecology ~~have discussed~~ opportunities to remedy legal and technical shortcomings of the TMDL that have been identified by both EPA (WU, ORC) and potential plaintiffs (NWEA, Squaxin Island Tribe).

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Ecology chose to send another submittal letter concerning the Deschutes TMDL on July 17, 2017, and asked EPA “to focus” on a ~~smaller subset (n = 46-73-27)~~ of TMDLs for bacteria, temperature, and fine sediment ~~(n = 46)~~. The 2017 letter includes ~~nuanced language that implies~~ ~~infer~~ Ecology will revisit ‘unapproved segments’ as part of the Budd Inlet TMDL. In addition, the 2017 letter included ~~certain revisions to the~~ bacteria and water temperature TMDLs ~~improvements prepared by Region 10~~ EPA to assist Ecology to remedy ~~some acknowledged deficiencies in the original submission.~~

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Deschutes (WA) TMDL Key Dates

Dates	Event
2004	Sampling Plan Completed
2003 - 2007	Monitoring
2007 - 2014	TMDL Development
April 2014	Announcement to Submit Freshwater Components Only
December 2015	Ecology Submitted TMDL to EPA
February - October 2016	EPA Concerns Shared with Ecology
June 2016	Ecology Hosted Squaxin Island Tribe – Tribal Coordination Meeting
August 2016	EPA/Ecology Discussion with NWEA in Portland, OR
Ex. 5 Deliberative Process (DP)	
January 2017	EPA Received Puget Sound FOIA from NWEA
March 2017	EPA Developed Bacteria TMDLs
June 2017	EPA & Ecology Negotiate “Resubmit” Letter
July 2017	EPA Received Resubmit Letter from Ecology
Ex. 5 Deliberative Process (DP)	

August 2017	EPA Received Deschutes NOI from NWEA
Ex. 5 Deliberative Process (DP)	
October 13, 2017	EPA Region 10 Discussion with NWEA, re: NOI

V. KEY ISSUES

Ex. 5 Deliberative Process (DP)

- NWEA provided a mandatory duty NOI on August 23, 2017
- A conversation with NWEA on October 13, 2017 indicates the July 2017 resubmittal letter will not deter litigation

Ex. 5 Deliberative Process (DP)

VI. ADDITIONAL POLICY AND LEGAL INFORMATION

Section 303(d)(2) of the CWA requires EPA to “either approve or disapprove [a TMDL] not later than thirty days after the date of submission.” If EPA disapproves a TMDL, Section 303(d)(2) requires EPA to issue a substitute TMDL within 30 days of disapproval. Ecology submitted the Deschutes River TMDL in December 2015, and EPA has not acted.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

VII. RECOMMENDATION

Work-in-Progress, to be distributed to DRA no later than October 26, 2017

VII

Ex. 5 Deliberative Process (DP)

IX. NEXT STEPS / UPCOMING DEADLINES

- *Schedule additional briefing with [??] by ??/2017*
- *Dave Croxton will communicate recommended path forward to Ecology by ??/2017*
- *Elaboration pending receipt of lawsuit and determination of final recommended option*

Commented [HA19]: I don't know what you mean by this

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

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Deschutes TMDL & Litigation

Background

The Deschutes River, Percival Creek, and Budd Inlet Tributaries (Phase 1) TMDL study area is located in south Puget Sound and is situated within the boundaries of Thurston and Lewis Counties, Washington. The Washington Department of Ecology submitted the final Phase 1 Deschutes TMDL to EPA for approval on December 17, 2015.¹ The TMDL addresses 73 Water Quality Limited Segments impaired by five pollutants (temperature, dissolved oxygen [DO], pH, fecal coliform, and fine sediment).

Litigation

On September 6, 2017, Northwest Environmental Advocates (NWEA) filed a complaint against EPA alleging violation of section 303(d)(2) of the Clean Water Act (CWA) for failure to act on the Deschutes River TMDL submission. Section 303(d)(2) requires EPA to either approve or disapprove a state's TMDL submission within 30 days of submittal.

As part of the ongoing litigation, EPA has stated in briefs that we will act on the Deschutes TMDL by June 29, 2018. The case is now fully briefed and we are awaiting the court's reply, which will either grant our request to stay the case until June 29, or render a summary judgment that EPA must act by June 29.

Current Status

The CWA requires EPA to either approve or disapprove state-submitted TMDLs, and if we disapprove, we are required to develop a replacement TMDL within 30 days.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Next Steps

A briefing on the proposed TMDL decisions for the RA is currently scheduled for May 21st. In addition, the Region will coordinate with HQ OWOW staff on needed background/briefing materials for AAOW. Once final decisions have been made on the TMDL, the Region will need to work quickly with HQ and the State on the disapproved segments to determine how replacement TMDLs will be developed.

¹ Marine segments (Phase 2, Budd Inlet) are planned for completion in 2020.

Message

From: Havard, James [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=9350676809E8403994F1DFC2B7BFDCFE-JHAVARD]
Sent: 10/23/2017 3:40:42 PM
To: Lewicki, Chris [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7688d5b97aa94ba6af2f38984d479b56-CLewicki]
Subject: FW: Conversation with Nina Bell re: Deschutes TMDL

From: Croxton, Dave
Sent: Monday, October 16, 2017 3:04 PM
To: Brown, Leah <Brown.Leah@epa.gov>; Byrne, Jennifer <Byrne.Jennifer@epa.gov>; Zell, Christopher <zell.christopher@epa.gov>; Lidgard, Michael <Lidgard.Michael@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Opalski, Dan <Opalski.Dan@epa.gov>; Havard, James <Havard.James@epa.gov>; Curtin, James <curtin.james@epa.gov>; Mann, Laurie <mann.laurie@epa.gov>
Subject: Conversation with Nina Bell re: Deschutes TMDL

ATTORNEY – CLIENT PRIVILEGE

Hi,

I had a phone call with Helen Bresler, Ecology, and Nina Bell on Friday to discuss the WA Deschutes TMDL and the NWEA NOI. Here is a summary of what I heard from Nina:

She has numerous substantive issues with the TMDL and she made those clear in the meeting she had with EPA and Ecology and did not feel the need to reiterate them here (*that meeting occurred in August, 2016, where Nina expressed many of the same substance concerns with the TMDL that EPA has including the lack of compliance with the downstream standards*). EPA has not acted on the TMDL after extensive time and she wants to see operation of the CWA. Not acting is not good for the law and not good for the environment.

She is very concerned with Budd Inlet being excluded from the TMDL. She has a larger Puget Sound perspective and is concerned about this TMDL without the Puget Sound piece of it. EPA delaying action is not helping.

The September letter from Ecology re-focusing their request for EPA to review a subset of the impairments in the Deschutes did not alleviate any of her concerns. Her big concern is the nitrogen problem and its impacts on Puget Sound.

She has no interest in holding-off on pursuing litigation on this TMDL. She feels EPA does not have its act together, that EPA is not settling lawsuits so conversation is not going to help, and that this is a mandatory duty suit.

END

Message

From: Lewicki, Chris [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=7688D5B97AA94BA6AF2F38984D479B56-CLEWICKI]
Sent: 1/4/2018 9:36:34 PM
To: Monschein, Eric [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=110281a30e814820830c14fa5075ff90-EMonsche]
Subject: Deschutes TP

Deschutes River TMDLs

- EPA's answer to Northwest Environmental Advocates (NWEA) Deschutes River TMDL single-count complaint must be filed in the W.D. of Washington (Seattle) court no later than January 12th.
- Northwest Environmental Advocates (NWEA) filed its complaint, on Monday Nov 6th, in the W.D. of Washington (Seattle) court alleging EPA failed to carry out its nondiscretionary duty to approve or disapprove the Deschutes River TMDLs within thirty days after submission by the state.
- R10 received the original TMDL submission package in December 2015 and has not yet taken action.
- The state made a supplemental submission in July 2017 that arguably includes new load calculations for some of the TMDLs. R10 has not acted on that either.
- The Region has identified a number of problems with the 2015 and 2017 submissions and will be discussing those with the State:
 - whether the State will cure its failure to public notice the clarifications it made in July 2017, and
 - the State's position if EPA were to disapprove a subset of the 2015 TMDLs due to other problems.
- We will be scheduling briefings for OW to discuss R10, OWOW and OGC's recommendations for which TMDLs to approve and disapprove.

Background

- EPA received NWEA's notice of intent to sue on August 25, 2017.
- EPA R10 coordinated with WA Ecology on the July 2017 revisions of the 2015 TMDLs.
- The State submitted a new request for approval on July 17, 2017, which asked EPA to review and approve only a subset of the "previously-submitted" TMDLs (eighteen segments impaired for temperature, fecal coliform, and fine sediment).

Ex. 5 Deliberative Process (DP)

Message

From: Curtin, James [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=728048227D024E0CB67932883007A4F9-JCURTIN]
Sent: 1/4/2018 9:10:35 PM
To: Lewicki, Chris [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7688d5b97aa94ba6af2f38984d479b56-CLewicki]
CC: Monschein, Eric [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=110281a30e814820830c14fa5075ff90-EMonsche]
Subject: RE: For Jim C's Review: DRAFT Deschutes TP

Looks good, Chris. Just have two comments/edits in yellow.

Jim

Jim Curtin
USEPA Office of General Counsel
Water Law Office
202-564-5482
William Jefferson Clinton North Rm. 7451

From: Lewicki, Chris
Sent: Thursday, January 04, 2018 4:02 PM
To: Curtin, James <curtin.james@epa.gov>
Cc: Monschein, Eric <Monschein.Eric@epa.gov>
Subject: For Jim C's Review: DRAFT Deschutes TP

Jim, can you please review by noon Friday? thanks

Deschutes River TMDLs

- EPA's answer to Northwest Environmental Advocates (NWEA) Deschutes River TMDL single-count complaint, alleging EPA failed to carry out its nondiscretionary duty to approve or disapprove the Deschutes River TMDLs within thirty days after submission by the state, must be filed in the W.D. of Washington (Seattle) court no later than January 12th.
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- EPA R10 coordinated with WA Ecology on the July 2017 revisions of the 2015 TMDLs.
- The State submitted a new request for approval on July 17, 2017, which asked EPA to review and approve only a subset of the [Suggest adding "previously-submitted"] TMDLs (eighteen segments impaired for temperature, fecal coliform, and fine sediment).

Ex. 5 Deliberative Process (DP)

From: Lewicki, Chris [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=7688D5B97AA94BA6AF2F38984D479B56-CLEWICKI]
Sent: 1/4/2018 9:02:04 PM
To: Curtin, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=728048227d024e0cb67932883007a4f9-JCURTIN]
CC: Monschein, Eric [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=110281a30e814820830c14fa5075ff90-EMonsche]
Subject: For Jim C's Review: DRAFT Deschutes TP

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Deschutes River TMDLs

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Background

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- EPA R10 coordinated with WA Ecology on the July 2017 revisions of the 2015 TMDLs.
- The State submitted a new request for approval on July 17, 2017, which asked EPA to review and approve only a subset of TMDLs (eighteen segments impaired for temperature, fecal coliform, and fine sediment).

Ex. 5 Deliberative Process (DP)

Message

From: Mills, Derek [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0B8B3681245C47D18908FD79DB50A843-MILLS, DERE]
Sent: 4/17/2018 2:57:33 PM
To: Curtin, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=728048227d024e0cb67932883007a4f9-JCURTIN]; Neugeboren, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cfd837ac503949a9820715b53ba921e6-SNEUGEBO]; Schroer, Lee [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=573fc5bb4942495d9fc3cd9438634244-LSCHROER]
Subject: RE: Deschutes River Meeting

Ok. I'll pass the message to Carla. Thanks!

From: Curtin, James
Sent: Tuesday, April 17, 2018 10:48 AM
To: Mills, Derek <Mills.Derek@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Schroer, Lee <schroer.lee@epa.gov>
Subject: RE: Deschutes River Meeting

Ex. 6 Personal Privacy (PP) but if 8 is the only time available, I'll do that and be here for the meeting. It's essential we have the meeting ASAP before Friday deadlines in Deschutes and NRDC cases.

Jim

Jim Curtin
USEPA Office of General Counsel
Water Law Office
202-564-5482
William Jefferson Clinton North Rm. 7451

From: Mills, Derek
Sent: Tuesday, April 17, 2018 10:41 AM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Schroer, Lee <schroer.lee@epa.gov>; Curtin, James <curtin.james@epa.gov>
Subject: FW: Deschutes River Meeting

Hi All,

Can you do the Deschutes meeting tomorrow at 8:00am? We are trying to keep it on this week but it keeps getting bumped around. Let me know. Thanks!

Derek Mills
Special Assistant, Office of General Counsel
U.S. Environmental Protection Agency
(202) 564-3341

From: Fotouhi, David
Sent: Tuesday, April 17, 2018 10:39 AM
To: Mills, Derek <Mills.Derek@epa.gov>
Subject: RE: Deschutes River Meeting

8:00 am works for me, but please check with Steve/Lee Schroer/Jim Curtin

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Mills, Derek
Sent: Tuesday, April 17, 2018 10:38 AM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Subject: Deschutes River Meeting

David,

Carla had to move this meeting, and now the new time also has a conflict. We can put it on for 8:00am tomorrow, or we can try for Friday. What do you think? Thanks!

Derek Mills
Special Assistant, Office of General Counsel
U.S. Environmental Protection Agency
(202) 564-3341

Deschutes Updates as of 5/9/2018

- Schedule for next couple of weeks:
 - Decision Memo: We've received extensive comments from OGC, and a few from the HQ TMDL program. We are giving the program until COB Monday 5/14 to provide additional comments. Currently making changes to the document based on comments.
 - Will develop draft briefing materials for the RA by the end of this week (5/11) and share with Dan/ORC to review.
 - Final briefing materials are due to the RA's office by 5/17.
 - Briefing with the RA on 5/21.

- New Updates/Questions:

-
-
-
-
-
-
-

Ex. 5 Deliberative Process (DP)

- Status of TMDL action **Ex. 5 Deliberative Process (DP)**

Ex. 5 Deliberative Process (DP)

Temperature Waterbody-pollutant Pairs

Waterbody	1996 Listing ID ¹ NOTEREF _Ref516578315 \h * MERGEFORMAT]	2010 Listing ID ¹	Final Action
Deschutes River	WA-13-1010	6576	Approve
		7590	Approve
		48710	Approve
		48711	Approve
		48712	Approve
		48713	Approve
		48714	Approve
		48715	Approve
		48717	Approve
		48718	Approve
		9439	Approve
	WA-13-1020	7588	Approve
		7592	Approve
		7593	Approve
		7595	Approve
		48720	Approve
		48721	Approve
		48724	Approve
		48726	Approve
Huckleberry Creek	WA-13-1024	3757	Disapprove
Reichel Creek	WA-13-1022	48666	Disapprove
Tempo Lake Outlet	---	48696	Disapprove
Ayer (Elwanger) Creek	WA-13-1015	(73229)	Disapprove
Unnamed Spring to Deschutes River	---	48923	Disapprove
Black Lake Ditch	---	48733	Approve
		48734	Approve
		48735	Approve
Percival Creek	WA-13-1012	42321	Approve
		48249	Approve
		48727	Approve
		48729	Approve

Ex. 5 Deliberative Process (DP)

pH Waterbody-pollutant Pairs

Waterbody	1996 Listing ID ¹ NOTEREF _Ref516578315 \h * MERGEFORMAT]	2010 Listing ID	Decision
Adams Creek	---	50965	Disapprove
Ayer (Elwanger) Creek	WA-13-1015	5850	Disapprove
Black Lake Ditch	---	50990	Disapprove

Fine Sediment Waterbody-pollutant Pair

¹ Listing IDs correspond to the 2010 303(d) list, except those in parentheses, which are from the 2012 303(d) list.

Waterbody	1996 Listing ID ¹ NOTEREF _Ref516578315\h * MERGEFORMAT]	2010 Listing ID	Decision
Deschutes River	WA-13-1020	6232	Disapprove

DO Waterbody-pollutant Pairs

Waterbody	1996 Listing ID ¹ NOTEREF _Ref516578315\h * MERGEFORMAT]	2010 Listing ID	Decision
Ayer (Elwanger) Creek	WA-13-1015	5851	Disapprove
Deschutes River	WA-13-1010	10894	Disapprove
		47753	Disapprove
		47754	Disapprove
	WA-13-1020	47756	Disapprove
Lake Lawrence Creek	---	47696	Disapprove
Reichel Creek	WA-13-1022	47714	Disapprove
Black Lake Ditch	---	47761	Disapprove
		47762	Disapprove
Percival Creek	WA-13-1012	48085	Disapprove
		48086	Disapprove

Bacteria Waterbody-pollutant Pairs

Waterbody	1996 Listing ID ¹ NOTEREF _Ref516578315\h * MERGEFORMAT]	2010 Listing ID ¹ NOTEREF _Ref516578771\h * MERGEFORMAT]	Decision
Adams Creek	---	45462	Disapprove
		45695	Disapprove
Butler Creek	---	45471	Decline review
Butler Creek, SW F	---	45342	Decline review
Ellis Creek	WA-13-0020	45480	Disapprove
Indian Creek	WA-13-1300	3758	Disapprove
		45213	Disapprove
		46410	Disapprove
		(74218)	Disapprove
Mission Creek	WA-13-1380	45212	Disapprove
		46102	Disapprove
Moxlie Creek	WA-13-1350	3759	Disapprove
		3761	Disapprove
		45252	Disapprove
		46432	Disapprove
Schneider Creek	---	45559	Disapprove
Ayer (Elwanger) Creek	WA-13-1015	5849	Decline review
Chambers Creek	WA-13-1014	45560	Decline review
Deschutes River	WA-13-1010	46499	Decline review
		46500	Decline review

Ex. 5 Deliberative Process (DP)

Enclosure: Summary of EPA Final Action on Deschutes TMDL

Waterbody	1996 Listing ID ¹ NOTEREF _Ref516578315 \h * MERGEFORMAT]	2010 Listing ID ¹ NOTEREF _Ref516578771 \h * MERGEFORMAT]	Decision
		9881	Decline review
	WA-13-1020	46210	Decline review
Reichel Creek	WA-13-1022	3763	Disapprove
		45566	Disapprove
Spurgeon Creek	WA-13-1016	46061	Disapprove
Percival Creek	WA-13-1012	46103	Decline review
		46108	Decline review

Ex. 5 Deliberative Process (DP)



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140

OFFICE OF
WATER AND WATERSHEDS

Ms. Heather Bartlett
Water Quality Program Manager
Washington Department of Ecology
PO Box 47600
Olympia, Washington 98504-7600

Re: EPA Final Action on the *Deschutes River, Percival Creek, and Budd Inlet Tributaries Multi-parameter Total Maximum Daily Load*

Dear Ms. Bartlett:

The U.S. Environmental Protection Agency has completed its Clean Water Act ("CWA") review of the *Deschutes River, Percival Creek, and Budd Inlet Tributaries Multi-parameter Total Maximum Daily Load* ("Deschutes TMDL") that the Washington Department of Ecology ("Ecology") submitted on December 17, 2015. The Deschutes TMDL addresses impairments for temperature, dissolved oxygen ("DO"), pH, fecal coliform bacteria, and fine sediment, totaling 73 waterbody-pollutant pairs. EPA's review also includes Ecology's July 17, 2017 letter to EPA ("2017 submittal"), which supplemented the 2015 TMDL submittal by providing new calculations for bacteria and clarifications for temperature. EPA's final action on the TMDL is described in this letter. A summary table of each waterbody-pollutant pair, as well as EPA's final action and corresponding rationale, is included in the enclosure.

EPA is approving 26 of the submitted TMDLs for temperature. These TMDLs meet the statutory and regulatory requirements found in section 303(d) of the CWA and EPA's implementing regulations at 40 C.F.R. Part 130. EPA's review indicates that these allocations have been established at levels that, when fully implemented, will lead to the attainment of the water quality standards in the waters addressed by this TMDL. Therefore, Ecology does not need to include these waters on the next 303(d) list of impaired waters for the applicable parameter.

EPA finds that 14 of the bacteria TMDLs are established at levels that will attain applicable water quality standards, and they satisfy the majority of the requirements of section 303(d) of the CWA and EPA's implementing regulations. However, these TMDLs are based in part on new calculations provided in the 2017 submittal, which have not yet undergone public review as required by 40 C.F.R. § 130.7(c)(1)(ii). EPA is therefore disapproving these bacteria TMDLs because they require additional public review.

EPA is disapproving 23 additional submitted TMDLs. These include TMDLs developed for temperature, DO, pH, fine sediment, and bacteria. According to our review, these TMDLs fail to meet the statutory and regulatory requirements found in section 303(d) of the CWA and EPA's implementing regulations. The primary deficiencies are summarized as follows:

- Incomplete TMDL submittals: Some waterbody-pollutant pairs lack critical TMDL components (e.g., loading capacity, wasteload allocations, and load allocations), as required by 40 C.F.R. §§ 130.2 and 130.7.
- Downstream uses not protected: Washington's water quality standards at WAC 173-201A-260(3)(b-d) require that downstream uses be protected. Some waterbody-pollutant pair TMDL calculations allow pollutant loadings that are not protective of downstream waters. Thus, they are not consistent with requirements at 40 C.F.R. § 130.7(c)(1) that TMDLs be established at levels necessary to attain and maintain the applicable water quality standards.
- TMDL target not protective of water quality standards: Some waterbody-pollutant pair TMDL calculations do not provide a clear linkage analysis to demonstrate that the water quality target chosen to develop the loading capacity is protective of state water quality standards. Thus, they are not consistent with requirements at 40 C.F.R. § 130.7(c)(1) that TMDLs be established at levels necessary to attain and maintain the applicable water quality standards.

Finally, EPA is not taking action on ten TMDLs submitted for bacteria because they were prepared for ten segments that no longer require TMDLs for bacteria. These segments, previously identified as impaired for bacteria in the EPA-approved 2010 303(d) list, were included in the 2015 TMDL submittal. Following Ecology's submission of the Deschutes TMDL in 2015, EPA approved the delisting of these ten segments based on Ecology's revised Integrated Report. These delistings were included in EPA's approval of the 2012 303(d) list on July 22, 2016. Placement of the ten segments in Categories 1 and 2 of the Integrated Report indicates they are no longer impaired for bacteria and, thus, no longer require a TMDL. Therefore, EPA has determined it is not required to approve or disapprove these bacteria TMDLs.

In summary, EPA is taking the following actions on the Deschutes TMDL:

- Approval of 26 TMDLs for temperature
- Disapproval of 14 TMDLs for bacteria (approvable upon completion of public participation process).
- Disapproval of 23 TMDLs for temperature, DO, pH, fine sediment, and bacteria.

EPA values our working relationship with Ecology, and we appreciate the continued cooperation offered by the State as we work towards the common goal of addressing impaired waters in the State of Washington. By EPA's final action, the approved TMDLs are now incorporated into the State's Water Quality Management Plan under section 303(e) of the CWA.

Ex. 5 Deliberative Process (DP)

If you have any comments or questions on this Agency action, please feel free to call me at (206) 553-1855, or you may call Miranda Hodgkiss of my staff at (206) 553-0692.

Sincerely,

Daniel D. Opalski, Director
Office of Water and Watersheds

Enclosure

cc: Mr. Andrew Kolosseus, Ecology

Temperature Waterbody-pollutant Pairs

Waterbody	Listing ID	Decision
Deschutes River	6576	Approve
	7590	Approve
	48710	Approve
	48711	Approve
	48712	Approve
	48713	Approve
	48714	Approve
	48715	Approve
	48717	Approve
	48718	Approve
	9439	Approve
	7588	Approve
	7592	Approve
	7593	Approve
	7595	Approve
	48720	Approve
	48721	Approve
	48724	Approve
	48726	Approve
Huckleberry Creek	3757	Disapprove
Reichel Creek	48666	Disapprove
Tempo Lake Outlet	48696	Disapprove
Ayer (Elwanger) Creek	73229	Disapprove
Unnamed Spring to Deschutes River	48923	Disapprove
Black Lake Ditch	48733	Approve
	48734	Approve
	48735	Approve
Percival Creek	42321	Approve
	48249	Approve
	48727	Approve
	48729	Approve

Ex. 5 Deliberative Process (DP)**DO Waterbody-pollutant Pairs**

Waterbody	Listing ID	Decision
Ayer (Elwanger) Creek	5851	Disapprove
Deschutes River	10894	Disapprove
	47753	Disapprove
	47754	Disapprove
	47756	Disapprove
Lake Lawrence Creek	47696	Disapprove
Reichel Creek	47714	Disapprove
Black Lake Ditch	47761	Disapprove
	47762	Disapprove
Percival Creek	48085	Disapprove
	48086	Disapprove

Ex. 5 Deliberative Process (DP)

pH Waterbody-pollutant Pairs

Waterbody	Listing ID	Decision
Adams Creek	50965	Disapprove
Ayer (Elwanger) Creek	5850	Disapprove
Black Lake Ditch	50990	Disapprove

Fine Sediment Waterbody-pollutant Pair

Waterbody	Listing ID	Decision
Deschutes River	6232	Disapprove

Bacteria Waterbody-pollutant Pairs

Waterbody	Listing ID	Decision
Adams Creek	45462	Disapprove
	45695	Disapprove
Butler Creek	45471	Decline review
Butler Creek, SW F	45342	Disapprove
Ellis Creek	45480	Disapprove
Indian Creek	3758	Disapprove
	45213	Disapprove
	46410	Disapprove
	74218	Disapprove
Mission Creek	45212	Disapprove
	46102	Disapprove
Moxlie Creek	3759	Disapprove
	3761	Disapprove
	45252	Disapprove
	46432	Disapprove
Schneider Creek	45559	Disapprove
Ayer (Elwanger) Creek	5849	Decline review
Chambers Creek	45560	Decline review
Deschutes River	46499	Decline review
	46500	Decline review
	9881	Decline review
	46210	Decline review
Reichel Creek	3763	Disapprove
	45566	Disapprove
Spurgeon Creek	46061	Disapprove
Percival Creek	46103	Decline review
	46108	Decline review

Ex. 5 Deliberative Process (DP)

Message

From: Opalski, Dan [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8B5ED6410D934BF699A008A252791A55-OPALSKI, DAN]
Sent: 11/28/2017 4:23:50 PM
To: Steiner-Riley, Cara [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0bef7d04f2e64e4b8b90235a30cc7109-Steiner-Riley, Cara]; Chung, Angela [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b3e49fcb1ad46f1bdbe92ebb4936350-Chung, Angela]; Croxton, Dave [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ca7b9940863640d5b96f4295ea3c9641-Croxton, Dave]
CC: Stern, Allyn [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2e2d6f5df08d4e9abbff2c0880407775-Stern, Allyn]; Brown, Leah [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b8e396f718a74d0bb01f1e35b7319572-Rindner, Le]
Subject: RE: Notice per the Directive of Deschutes River TMDL Complaint

Ex. 5 Attorney Client (AC)

From: Steiner-Riley, Cara
Sent: Tuesday, November 28, 2017 8:13 AM
To: Chung, Angela <Chung.Angela@epa.gov>; Croxton, Dave <Croxton.David@epa.gov>; Opalski, Dan <Opalski.Dan@epa.gov>
Cc: Stern, Allyn <Stern.Allyn@epa.gov>; Brown, Leah <Brown.Leah@epa.gov>
Subject: FW: Notice per the Directive of Deschutes River TMDL Complaint

What do you think? Thanks.

From: Curtin, James
Sent: Tuesday, November 28, 2017 8:04 AM
To: Mills, Derek <Mills.Derek@epa.gov>; Stern, Allyn <Stern.Allyn@epa.gov>
Cc: Brown, Leah <Brown.Leah@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Schroer, Lee <schroer.lee@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>
Subject: RE: Notice per the Directive of Deschutes River TMDL Complaint

Allyn, Cara and Leah,

Ex. 5 Attorney Client (AC)

Jim

Jim Curtin
USEPA Office of General Counsel
Water Law Office
202-564-5482
William Jefferson Clinton North Rm. 7451

From: Mills, Derek
Sent: Tuesday, November 28, 2017 10:53 AM
To: Stern, Allyn <Stern.Allyn@epa.gov>; Curtin, James <curtin.james@epa.gov>
Cc: Brown, Leah <Brown.Leah@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Schroer, Lee <schroer.lee@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>
Subject: RE: Notice per the Directive of Deschutes River TMDL Complaint

[[removed David]]

Hi All,

Today we are finalizing the notice letters, getting Kevin's signature on them, and sending them out via email. In accordance with the direction provided by this group, we are sending 4 letters. Two will go to our contacts at the Washington AG's office. One will go to the Governor's office, and another will go to the Washington Department of Ecology. I'll send out an example for your reference once we have them signed.

Ex. 5 Attorney Client (AC)

Thanks everyone!

Derek Mills
Special Assistant, Office of General Counsel
U.S. Environmental Protection Agency
(202) 564-3341

From: Fotouhi, David
Sent: Monday, November 27, 2017 9:09 AM
To: Stern, Allyn <Stern.Allyn@epa.gov>; Curtin, James <curtin.james@epa.gov>
Cc: Brown, Leah <Brown.Leah@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Mills, Derek <Mills.Derek@epa.gov>; Schroer, Lee <schroer.lee@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>
Subject: RE: Notice per the Directive of Deschutes River TMDL Complaint

Ex. 5 Attorney Client (AC)

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Stern, Allyn
Sent: Wednesday, November 22, 2017 3:37 PM
To: Curtin, James <curtin.james@epa.gov>
Cc: Brown, Leah <Brown.Leah@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Mills, Derek <Mills.Derek@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Schroer, Lee <schroer.lee@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>
Subject: Re: Notice per the Directive of Deschutes River TMDL Complaint

Ex. 5 Attorney Client (AC)

Allyn Stern
Regional Counsel
US EPA Region 10
206-553-1223
stern.allyn@epa.gov

On Nov 22, 2017, at 12:06 PM, Curtin, James <curtin.james@epa.gov> wrote:

Thanks, Derek.

Ex. 5 Attorney Client (AC)

Jim

Jim Curtin
USEPA Office of General Counsel
Water Law Office
202-564-5482
William Jefferson Clinton North Rm. 7451

From: Brown, Leah
Sent: Wednesday, November 22, 2017 2:41 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Mills, Derek <Mills.Derek@epa.gov>; Curtin, James <curtin.james@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>
Cc: Schroer, Lee <schroer.lee@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Stern, Allyn <Stern.Alyn@epa.gov>
Subject: RE: Notice per the Directive of Deschutes River TMDL Complaint

Hi Steve,

Ex. 5 Attorney Client (AC)

Thanks,

Leah

From: Neugeboren, Steven
Sent: Wednesday, November 22, 2017 11:18 AM
To: Mills, Derek <Mills.Derek@epa.gov>; Curtin, James <curtin.james@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>

Cc: Schroer, Lee <schroer.lee@epa.gov>; Brown, Leah <Brown.Leah@epa.gov>

Subject: RE: Notice per the Directive of Deschutes River TMDL Complaint

Ex. 5 Attorney Client (AC)

Steve Neugeboren
Associate General Counsel for Water
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460
202 (564-5488)

From: Mills, Derek

Sent: Wednesday, November 22, 2017 1:06 PM

To: Curtin, James <curtin.james@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>

Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Schroer, Lee <schroer.lee@epa.gov>; Brown, Leah <Brown.Leah@epa.gov>

Subject: RE: Notice per the Directive of Deschutes River TMDL Complaint

Importance: High

Hi All,

I spoke with Kevin briefly about this yesterday. Since we don't have much time, I will try to summarize what I think potential options are. The goal is to have an option that R10, WLO (including management), and David are comfortable with ASAP since the letters are due to go out on Tuesday (11/28).

Ex. 5 Attorney Client (AC)

Thanks!

Derek Mills
Special Assistant, Office of General Counsel
U.S. Environmental Protection Agency
(202) 564-3341

From: Curtin, James

Sent: Tuesday, November 21, 2017 3:40 PM

To: Fotouhi, David <Fotouhi.David@epa.gov>

Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Schroer, Lee <schroer.lee@epa.gov>; Mills, Derek <Mills.Derek@epa.gov>; Brown, Leah <Brown.Leah@epa.gov>

Subject: Notice per the Directive of Deschutes River TMDL Complaint

David,

After talking with Derek, I wanted to get your thoughts about a proposed approach for complying with the complaint notification (Paragraph 3) requirement of the Administrator's Directive for the Deschutes River TMDL case.

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Any preliminary feedback is welcome. I will keep you apprised of any further information we develop.

Jim

Jim Curtin
USEPA Office of General Counsel
Water Law Office
202-564-5482
William Jefferson Clinton North Rm. 7451

Message

From: Opalski, Dan [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8B5ED6410D934BF699A008A252791A55-OPALSKI, DAN]
Sent: 3/20/2018 5:46:14 PM
To: Croxton, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ca7b9940863640d5b96f4295ea3c9641-Croxton, Dave]; Brown, Leah [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b8e396f718a74d0bb01f1e35b7319572-Rindner, Le]; Zell, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a7206bbb71ff41c999629b86cc25c7e4-Zell, Chris]; Hodgkiss, Miranda [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9d441ddb44ac4ed486058d2c2690b977-Hodgkiss, Miranda]
CC: Steiner-Riley, Cara [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0bef7d04f2e64e4b8b90235a30cc7109-Steiner-Riley, Cara]; Chung, Angela [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b3e49fcb1ad46f1bdbe92ebb4936350-Chung, Angela]
Subject: RE: Deschutes

Ex. 5 AC/DP

From: Croxton, David
Sent: Tuesday, March 20, 2018 10:19 AM
To: Brown, Leah <Brown.Leah@epa.gov>; Zell, Christopher <zell.christopher@epa.gov>; Hodgkiss, Miranda <Hodgkiss.Miranda@epa.gov>; Opalski, Dan <Opalski.Dan@epa.gov>
Cc: Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>
Subject: Re: Deschutes

That is fine with me. Thanks Leah

From: Brown, Leah
Sent: Tuesday, March 20, 2018 10:03:13 AM
To: Croxton, David; Zell, Christopher; Hodgkiss, Miranda; Opalski, Dan
Cc: Steiner-Riley, Cara
Subject: FW: Deschutes

Ex. 5 Attorney Client (AC)

Leah Brown
Assistant Regional Counsel
(206) 553-8694
brown.leah@epa.gov

From: Curtin, James
Sent: Tuesday, March 20, 2018 7:25 AM
To: sonya.shea@usdoj.gov; Brown, Leah <Brown.Leah@epa.gov>
Subject: Deschutes

Ex. 5 Attorney Client (AC)

Jim

Jim Curtin
USEPA Office of General Counsel
Water Law Office
202-564-5482
William Jefferson Clinton North Rm. 7451

Message

From: Brown, Leah [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B8E396F718A74D0BB01F1E35B7319572-RINDNER, LE]
Sent: 6/20/2018 11:56:15 PM
To: Steiner-Riley, Cara [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0bef7d04f2e64e4b8b90235a30cc7109-Steiner-Riley, Cara]
Subject: FW: Deschutes TMDL

Leah Brown
Assistant Regional Counsel
(206) 553-8694
brown.leah@epa.gov

From: Curtin, James
Sent: Friday, June 8, 2018 12:17 PM
To: Brown, Leah <Brown.Leah@epa.gov>
Cc: Hodgkiss, Miranda <Hodgkiss.Miranda@epa.gov>; Havard, James <Havard.James@epa.gov>; Lewicki, Chris <Lewicki.Chris@epa.gov>; Hunter, Christopher <Hunter.Christopher@epa.gov>
Subject: RE: Deschutes TMDL

Hi Leah,

As you might expect, my trip to Seattle this week put me behind schedule on a great number of things. I'm going to print out the draft decision document today and take it home this weekend. By Monday, I'll be in better shape to speak to its defensibility.

Ex. 6 Personal Privacy (PP)

If able, I'll call in to Jim H, Chris H, and Chris L's meeting on Monday. Can someone tell me when it is and give me a # to call?

In any event, I'll send my thoughts to all of you by email or vm.

Jim

Jim Curtin
USEPA Office of General Counsel
Water Law Office
202-564-5482
William Jefferson Clinton North Rm. 7451

From: Brown, Leah
Sent: Friday, June 08, 2018 2:52 PM
To: Curtin, James <curtin.james@epa.gov>
Subject: Deschutes TMDL

Hi Jim,

I just heard from Miranda that Chris Hunter and Chris Lewicki are meeting with Jim Havard on Monday to discuss the Deschutes TMDL. It sounds like Jim H. may be waiting to hear your thoughts on our review action before he reviews the TSD. Have you had a chance to speak with him? Do you generally feel comfortable with the TSD? I think Miranda did a nice job of responding to your comments but I'd appreciate your perspective, given that this is the first time I've reviewed a TMDL. I'm in a meeting for the next hour or so but let me know if you'd like to chat.

Thanks,

Leah

Leah Brown
Assistant Regional Counsel
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue, Suite 900
Seattle, WA 98101
(206) 553-8694
brown.leah@epa.gov

Message

From: Brown, Leah [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B8E396F718A74D0BB01F1E35B7319572-RINDNER, LE]
Sent: 6/20/2018 11:54:56 PM
To: Steiner-Riley, Cara [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Obef7d04f2e64e4b8b90235a30cc7109-Steiner-Riley, Cara]
Subject: FW: Deschutes

FYI – I can't remember if I forwarded this.

Leah Brown
Assistant Regional Counsel
(206) 553-8694
brown.leah@epa.gov

From: Curtin, James
Sent: Thursday, June 14, 2018 8:42 AM
To: Brown, Leah <Brown.Leah@epa.gov>; Havard, James <Havard.James@epa.gov>; Hunter, Christopher <Hunter.Christopher@epa.gov>; Lewicki, Chris <Lewicki.Chris@epa.gov>
Cc: sonya.shea@usdoj.gov
Subject: Deschutes

This morning, I gave David Fotouhi a quick update.

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Jim

Jim Curtin
USEPA Office of General Counsel
Water Law Office
202-564-5482
William Jefferson Clinton North Rm. 7451